A Comparative Analysis of the Aviation Network within The European Community and the Ad-Hoc Network between the United States and Central America

E. Rebecca Kreis*

TABLE OF CONTENTS

* Ms. Kreis is a joint Juris Doctorate candidate at The Columbia University School of Law, and Master of Law and Diplomacy candidate (M.A.L.D. in Development Economics and Law and Development) at the Fletcher School of Law and Diplomacy. The author would like to thank Tomás Nassar and José Giralt for their support.

This paper compares the aviation network within the European Community to the network established between Central America and the United States. It begins by looking at the history of aviation law up until World War II, then examines the current international aviation laws in Europe, the United States, and in Central America. With respect to Central America, the paper concentrates on the bilateral aviation agreement between Costa Rica and the United States, signed in 1979.[1] Costa Rica has always been a leader in global aviation liberalization and a role model for Central America. However, after 16 years with the same bilateral "Free Skies" agreement with the United States, the developments for international aviation which the treaty heralded are now not as progressive as they appeared in 1979. By examining the

1. T.I.A.S. no. 10,894. Effected by an exchange of notes signed at San José, October 20 and November 23, 1983.

changes underway within Europe and the United States, this paper suggests changes which Central America and Costa Rica may be able to implement in order to create aviation policies more relevant to the late 1990's.

History of International Aviation Agreements and Aviation Law

Aviation law, like aviation itself, has changed dramatically over the past century. With the advances in technology brought about by World Wars I and II came increasingly specific international aviation laws, both in multilateral and bilateral forms. In the late 1970's, with an increasingly liberal and procompetitive government in the United States, aviation law liberalizations in the form of "Free Skies" bilateral agreements were initiated. Beginning in the late 1980's, and continuing to the current period, the European Union also worked to draw its aviation laws together into a unified, and more liberal, whole.

History up to 1944

International air law includes both public and private branches of law, which arise from aircraft navigation rules, aeronautical rules, and international principles. The International Aeronautical Congress of 1889, held in Paris, was the birthplace of international air law. The first international aeronautical organization, the International Aeronautical Federation, was established sixteen years later, and was one of the first forums where these laws were discussed. In 1901, the first scientific work on international air law was announced in Paris, written by a Frenchman, P.A.J. Fauchille (1858-1926), in the Revue Générale de Droit International Public, and titled *Le Domaine Aérien et le Régime Juridique des Aérostates.* This publication was followed shortly by the 1902 conference in Brussels on International Law. One of the main topics of this conference was the legal status of free balloons. In 1906, the Convention International Aérienne was drafted by the French, stating that airspace, like the high seas, is open to trade and travel. However, this draft was never approved by any country.[2]

The first bilateral air agreement in history took place with the exchange of notes between the government of France and the German Reich in Berlin on July 26, 1913. This agreement stated that until a multilateral air convention could be established, both parties would allow, under special conditions, each other's aircraft into their airspace. Due to the air bombardments of World War I, the principle of *cuius solum*, that

2. Edmond Jan Osmanczyk, Encyclopedia of the United Nations and International Agreements 17-18 (Taylor and Francis, 1985) [*hereinafter* Encyclopedia].

"each state has full and exclusive sovereignty over it's territory's air space," was adopted immediately after the conclusion of the war. This principle was later included in the Paris Aeronautical Convention of October 13, 1919. As this was the first time that international aeronautical norms and principles were formulated, this convention may be seen as the "cradle of international air law."[3] These norms included general principles for the regulation of air navigation, the nationality of airplanes, certification of airplanes as airworthy, certificates of competence for pilots, rights of passage over the territories of the signatories and restrictions on military airplanes, rules which must be observed in flight, restrictions on air routes, promotion of civil aviation for the contracting states, and mechanisms for the settlement and resolution of disputes between parties.[4] At the same time, the International Convention on Air Navigation (CINA) was formed, which served as the governing international air organization until 1943.[5]

Due to a few clauses contained in the convention which indirectly discriminated against neutral countries and the losers of the first World War, the convention was not ratified by Russia or by the United States of America. This created difficulties for negotiating developments in international air law.[6] The first air agreement to concern Central America was the Ibero-American Convention on Air Navigation (*Convención Ibero-Americana sobre Navigación Aerea*) written in Madrid, and signed on November 1, 1926 by Spain, Costa Rica, Mexico, Paraguay, and the Dominican Republic.[7] This agreement was virtually identical to the Paris convention, with the exception of the elimination of the controversial articles.[8]

The next convention concerning international air law also concerned Central America. The Convention on Trade Navigation (*Convención sobre Aviación Internaciónal*) was signed on February 20, 1928 by eleven Latin American states, including Costa Rica. This convention was prepared specifically to regulate private commercial aviation in the Americas,[9] thereby defending the Latin American states against the unrestricted expansion of United States airline routes within the western hemisphere.[10]

On October 12, 1929, the Warsaw Aeronautical Convention on inter-

3. *Id.* at 18.
4. José Giralt, Convenios, Acuerdos y Tratados Internacionales Sobre Aeronáutica Civil 2 (unpublished) [*hereinafter* Giralt].
5. *Id.*
6. *Id.*
7. ENCYCLOPEDIA, *supra* note 2, at 18.
8. Giralt, *supra* note 4, at 3.
9. *Id.*
10. ENCYCLOPEDIA, *supra* note 2, at 18.

national aircraft transport, prepared by CINA, was signed. This convention established multilateral regulations with respect to the limits of responsibility for airlines, and the standardization of transportation documents. Next, the conference in the Hague produced the "Hague Aeronautical Convention on Sanitary Conditions of Air Navigation" on April 12, 1933. This convention was replaced by the Washington Convention of December 15, 1944.[11] On May 29, 1933, the Rome Aeronautical Conventions on the Protection of Aircraft and on the Unification of Some of the Provisions on Damages Caused by Aircraft to Third Persons on the Ground were signed. The latter of these was replaced by the Brussels Protocol of November 30, 1938.[12] The Brussels convention of November 29, 1938 was the last agreement signed before World War II, and concerned assistance and salvage of aircraft at sea; however this agreement was never enacted as it was not ratified by a sufficient number of signatories.[13]

Of these pre-war conventions, a few are still in force. These are the Warsaw Convention, which was modified three times, May 27, 1947, June 7, 1954, and May 21, 1961; the Hague Convention; and the Rome Convention, both modified November 28, 1955.

WWII AND POST WWII

From 1926 to 1946, the International Technical Committee of Experts in Aeronautical Legislation, under the auspices of the League of Nations, acted as promoter for, and governing body over, international air law. Its duties were taken over in 1947 by the creation of the International Civil Aviation Organization (ICAO).

International Civil Aviation Agreement

The International Civil Aviation Organization was created during World War II when England and the United States started negotiations for the creation of a new aeronautical convention to replace the Paris Convention of 1919. The United States wanted the internationalization of air routes, due to the potentials for air transportation created by the war. The United States, with the hope of using its military aircraft for civilian purposes after WWII, hosted the International Civil Aviation Conference in Chicago from Nov. 1 to Dec. 7, 1944. Fifty-four States attended, with the noticeable absence of the USSR, which did not participate due to the presence of Portugal and Spain.[14]

11. *Id.*
12. *Id.*
13. *Id.*
14. *Id.*

The negotiating states came with different expectations. Consequently, the resulting treaty was both extraordinarily flexible and lacking in clout. The United States wanted to pass a clause giving "the privilege of friendly passage accorded to nations." This would have opened the airspace of the world to those powers with the ability to establish a global network of air routes. France opposed this clause. The four treaties which came out of the convention strove to provide a compromise for all nations. These four treaties include:

- the Treaty on the Transit of Air Services, which establishes the first two a provisional civil aviation treaty, which allowed the creation of the Provisional Civil Aviation Organization on August 15, 1945, two years before the ICAO was established;
- the Convention on International Civil Aviation, also known as the Chicago Aeronautical Convention of 1944, which served to replace the Paris Convention of 1919 and the Havana convention of 1928;
- the Treaty on the Transit of Air Services; and
- the Treaty on International Air Transportation.[15]

The Treaty on the Transit of Air Services, a provisional civil aviation treaty which establishes the first two freedoms, has been ratified by over 100 states. The Treaty on International Air Transport, which establishes the "five freedoms" however, has only been signed by eleven states, including Costa Rica, but not the United States.[16] Two other documents which came out of the Chicago Convention were a model bilateral agreement for exchange of routes and services which has been used as a model around the world, and a set of fifteen technical annexes.[17]

The freedoms of the air which the signatories defined as law covering air transport of people, machines, and mail. The first two consider technical issues, the rest, commercial. In total there are eight freedoms, although not all are adhered to by all states, and a few, especially the last four, are contentious. The first two are adhered to by all signatories of the Treaty on the Transit of Air Services, while the rest are mainly established in bilateral agreements:

- FIRST FREEDOM - Flight over the territory of another state without landing;
- SECOND FREEDOM - Landing in the territory of another state for technical reasons;

15. *Id.*

16. Other signatories include Bolivia, Burundi, El Salvador, Ethiopia, Greece, Honduras, Liberia, the Netherlands, Paraguay, Sweden, and Turkey. Sweden withdrew in 1983. The ICAO states the document is still in force for those who wish to abide by it. *See* Joan M. Feldman, *On Getting From Here to There (International Aviation Structure is Becoming Obsolete)*, AIR TRANSP. WORLD, October 1995, at 24.

17. Giralt, supra note 4, at 4.

- THIRD FREEDOM - Transport of commercial traffic from the state of origin of the operator to the territory of another state;
- FOURTH FREEDOM - Transport of commercial traffic from the territory of another state to the state of origin of the operator;
- FIFTH FREEDOM - The right of the operator of one state to transport commercial traffic between two other states along a route that has the origin or final destination in the territory of the state of the operator;
- SIXTH FREEDOM - The transport of commercial air traffic between two other states through the property of the operator;
- SEVENTH FREEDOM - The transport of commercial air traffic entirely outside the territory of the operator; and
- EIGHTH FREEDOM - The transport of commercial air traffic entirely inside another state, known as "cabotage."[18]

The technical annexes are sets of standards and recommended practices, and are, in effect, annexes to the ICAO convention, applicable to all territories of ICAO member states. The original annexes include:

- Personnel licensing - indicating the technical requirements and experience necessary for pilots and air-crews flying on international routes;
- Aeronautical maps and charts - providing specifications for the production of all maps and charts required in international flying;
- Rules of air - including general flight rules, instrument flight rules, and right-of-way rules;
- Dimensional practices - providing progressive measures to improve air-ground communications;
- Meteorological codes - specifying the various systems used for the transmission of meteorological information;
- Operation of aircraft in scheduled international air services - governing flight preparations, aircraft equipment and maintenance, and in general, the manner in which aircraft must be operated to achieve the desired levels of safety on any kind of route;
- Aircraft nationality and registration marks;
- Airworthiness of aircraft;
- Facilitation of international air transport - simplifying customs, immigration and health inspection regulations at border airports;
- Aeronautical telecommunications - dealing with the standardization of communications systems and radio air navigation aids;
- Air traffic services - dealing with the establishment and operation of air traffic control, flight information and alerting services;
- Search and rescue - dealing with the organization to be established by states for the integration of facilities and services necessary for search and rescue;
- Aircraft accident inquiry - dealing with the promotion of uniformity in the notification, investigation of, and reporting on aircraft accidents;
- Aerodromes - dealing with the physical requirements, lighting and marking of international aerodromes; and

18. *Id.* at 5.

- Aeronautical information services - dealing with the uniformity in methods of collection and dissemination of aeronautical information.[19]

In addition, the ICAO plays a role as a governing body over all of the member states.[20] Individual bilateral and multilateral agreements as well as contracts concluded by member states or airlines operating in those states must be registered with the ICAO. The ICAO also keeps copies of all national aviation laws.

There are two weaknesses in the ICAO. First, the ICAO can not mandate or enforce any regulations or agreements. Its job is mainly to develop and to recommend the implementation of international technical standards. The signatories of the convention are then required to impose the standards on their airlines. This does not always happen.[21] Second, the ICAO has little impact on international airline economic regulation, due to a schism between delegates. This task has fallen to individual governments, in part due to a 1946 meeting in Bermuda.

However, these weaknesses have not kept the ICAO from evolving. Since 1946 there have been three more additions made to the annexes, and one amendment made to the convention. The new annexes include:

- a 1971 regulation overseeing noise reduction and pollution caused by the operation of airplanes;
- regulations concerning air security; and
- a 1984 regulation concerning the transport of dangerous materials on board airplanes.

An amendment to the convention was also proposed in 1984, and was unanimously adopted by the assembly. This amendment stated that every State must "refrain from resorting to the use of weapons against civil aircraft in flight and . . . in cases of interception, the lives of persons on board and the safety of the aircraft must not be endangered."[22]

After the ICAO convention, there were many more international agreements signed, including the Geneva Convention of 1948 in the International Recognition of Rights Aboard Aircraft, signed on June 19, 1948; the 1952 Convention on Damages Caused to the Surface of the Earth to Third Persons Caused by Alien Aircraft, which replaced the Rome Convention of 1933; the Hague Protocol of 1955, along with recommendations to settle issues arising from chartering, renting and exploiting of aircraft, and to examine the possibility of unifying private international air law and regulating international air disputes; the Con-

19. ENCYCLOPEDIA, *supra* note 2, at 366.

20. *Id.*

21. Joan M. Feldman, *Navigating Change; Chicago Convention Fete,* AIR TRANSP. WORLD, Oct. 1, 1994, at 77.

22. ENCYCLOPEDIA, *supra* note 2, at 366.

vention on Crimes and Other Offenses Committed on Board an Aircraft, adopted in Tokyo on October 14, 1963; the Hague Convention on Combating Unlawful Seizure of Aircraft, signed on December 16, 1970, which supplanted the Tokyo agreement; the Guatemala Air Protocol of March 8, 1978; a revision of the Warsaw Convention of 1929; and the revised Hague Protocol of 1955. In addition, there have been many regional aeronautical agreements to aid the integration process.[23]

Post 1946 Attempts to Create Free Skies

After 1946, and following the Bermuda One Agreement,[24] world aviation law turned to bilateral aviation agreements to establish freedom of the skies for individual countries. Later, a new approach was taken concurrent with the existing bilaterals; the formation of alliances and the use of code sharing between airlines of different nations.

Bilateral Aviation Agreements

The Chicago Conference of 1944 made an attempt to establish a multilateral framework for commercial air transport services. However, due to conflicts primarily between the United States and the United Kingdom over the regulation of the first five air freedoms, no multilateral conclusion was reached. The United States wanted a multilateral guarantee of the five freedoms with no restrictions of frequencies or capacities. The United Kingdom was in favor of strict regulation. The agreements reached were discussed above; the agreements which were not reached, especially those concerning the fifth air freedom commercial traffic, were left to bilateral agreements. The dispute over the fifth air freedom rights between the United States and the United Kingdom finally was resolved in the Bermuda One agreement. This agreement set a precedent for bilateral negotiations world wide, and was widely used as a model for post-war route exchange agreements. However, as countries tried to balance the numerous points needed to create a bilateral agreement, the outcome often was unfairly skewed in the points of access or carrying capacity granted to each country.[25]

Britain canceled the Bermuda One agreement in 1977, and subsequently negotiated the Bermuda Two, signed on July 23, 1977. This

23. *Id.* at 18

24. The Bermuda Conference held in 1946 was a means for the United Kingdom and the United States to reach an agreement over international air transport services. The need for a bilateral agreement to establish regulations concerning capacity, frequency, fares, and rates, as well as the fifth air freedom commercial traffic rights between two of the worlds strongest nations, resulted in a template for others to follow. *See* Nawal K. Taneja, Airlines in Transition 42-43 (D.C. Heath & Co., 1984).

25. *Id.*

agreement was a successful attempt by the British to remove some of the excess capacity of United States carriers in the United Kingdom. The agreement made it easier to review and change capacity of carriers. Still, there continued to be tension over how liberal the air transport agreements should be, coupled with a desire by the United States to have greater freedom of the skies. The United States pushed for free skies continuously, culminating its previous efforts with the passage of the Airline Deregulation Act of 1978.[26] This act removed regulations on United States aircraft, establishing free entry into the market and removing price regulations. The goal of the act was to open the industry to competition and thereby increase economic efficiency and service. It marked a commitment to freedom of the skies, and was the impetus for several highly liberal bilateral agreements which were signed in the late 1970's, including the 1979 agreement with Costa Rica.

Alliances

Alliances are one solution to the problems arising from restrictive domestic aviation policies. British Airways and American Airlines demonstrated this clearly in their recent alliance of June 12, 1996. This move gave the pair 11.3% of the traffic of all American, Asian, and European air carriers. They now dominate the major routes between the United States' east coast and Europe, as well as those between eastern Canada and Europe.[27]

Before liberalization took place in the European Community, there were two niches in the air transport world which accommodated the major flag carriers and independent regional airlines. The larger companies focused on frequent trips on well charted routes, while the smaller independent airlines were free to identify newly emerging markets. With deregulation, however, both sides saw that they could benefit from relations with the other. The major airlines could guarantee access to their hubs, allowing the creation of separate profit centers, especially if financial investments were made. The regional airline would, in return, be able to maintain its position in the increasingly congested hubs, and benefit from the agreement through greater financial credibility, increased marketing ability, and assurance that its aircraft would be fully employed.[28]

Richard Heidecker, Managing Director of DLT, a regional airline allied with Lufthansa, remarked: "It is essential for the regional airline to

26. 49 U.S.C. §40101 (1994).

27. Paula Dwyer, *A MegaDeal in the Skies,* BUS. WK., June 3, 1996, at 50-51.

28. Andrew M. Campbell, *Deregulation; An Old Idea Whose Time. . .,* AIR TRANSP. WORLD, Feb.1, 1990, at 106.

forge an alliance with a major partner. The idea is to build up a separate regional-airline profit center. Our belief is that the best way to do that is to leave the decision making to the regional partners. [This] system provides more motivation to the staff, because at the end of the day, it will be down to them whether we keep flying these routes. And on top of our own ideas and skills, we still have Lufthansa to back us up on the aspects that do not concern the day-to-day flight operations."[29] Air France adds that an affiliated airline can gain from increased public awareness of their operations when a customer uses their airline for a connecting flight.

The system used in these alliances is generally a "wet-lease," where the flag carrier buys capacity on the regional's planes, taking any profit or loss incurred by the services. Regionals have also diversified into such sectors as aircraft leasing, ground handling, third-party Flight-crew handling, and airport management.[30]

Code Sharing

A different form of alliance used frequently is "code sharing," the use of an airline's two letter designation on a partner's flight. The result is the equivalent of a on-line connection, and therefore a more favorable computer display when consumers look to purchase their tickets. There are many benefits from these links. The first and foremost is access to restricted markets. Following this are increased revenues, lower costs, new traffic, and "seamless" service.[31] Code sharing has opened the United States market to foreign competitors. However, a Canadian economist, Doug Wilson, points out that before deregulation, there were several aircraft interchanges and pools, similar to code sharing. After deregulation, these were discontinued, as airlines focused on expanding their own operations. Now they are returning.[32]

The United States Department of Transportation (DOT) has concerns over the possible negative impact on competition which code sharing may create. DOT, nonetheless, is a major sponsor of the practice among governments, likely due to its lack of success in opening the skies of major countries. Code sharing may be the next best way, after a bilateral or a multilateral free sky agreement, to gain access abroad. As of mid-1995, DOT had approved over 60 code sharing agreements.[33]

Problems exist with code sharing in that little to no data is available concerning the profits generated. It is difficult for the regulating bodies,

29. *Id.* at 108.
30. *Id.* at 109.
31. Joan M. Feldman, *Alliances: Are We Making Money Yet?* AIR TRANSP. WORLD, Oct. 1, 1995, at 25.
32. *Id.* at 26.
33. *Id.*

like the United States DOT, to know if alliances enhance or reduce competition, create or reduce access, increase traffic for carriers or only rearrange existing traffic, and if alliances make or lose money for the airlines.[34] To deal with the surge in code sharing, DOT created a policy for the United States which has had repercussions abroad, and has been widely imitated. This policy states that when a foreign carrier wishes to form an alliance with a United States airline, the foreign carrier must have underlying rights to the United States routes proposed. As a result, there is now the need to negotiate with the foreign carriers to create provisions to accommodate extensions beyond United States gateways. Other nations have followed suit, placing the same restrictions on foreign countries, complicating matters greatly.[35]

Moreover, DOT's policy to require "statements of authorization" for airlines which want to codeshare could also be used as a trade barrier. Codesharing would be an effective way for the United States Government to switch to a multinational arena. It could write a global standard on codesharing requirements and opportunities. Carriers of nations which signed such an agreement would have the ability to codeshare with any other carrier of a signatory of the agreement without limitations. This agreement in turn could set the stage for more multinational agreements on more difficult topics.[36]

Additionally, DOT has provided foreign airlines immunity to the United States anti-trust laws, as a means to entice foreign countries to sign open-skies agreements. The first example of this tactic was the Northwest-KLM alliance, stemming from the United States-Netherlands bilateral. However, this action too has provided complications for the United States, as every existing alliance then claimed that it also needed immunity. Non-United States airlines whose governments have signed open-skies deals have very compelling arguments, based on precedent.[37] Other airlines which have benefited from anti-trust protection include UAL Corp.'s United Airlines and Germany's Lufthanza, Delta Airlines and Sabena, Swissair, and Austrian Airlines, and most recently, American Airlines and British Air.[38] Exemption from anti-trust laws allows greater market share, and greater returns to scale, making the alliances more profitable than independent standing.

---

34. *Id.*

35. *Id.* at 31.

36. Michael Goldman & Cyril Murphy, *Multilateral Age Approaches,* AIRLINE BUS., Feb. 1, 1994, at 44-47.

37. Feldman, *supra* note 31, at 31.

38. Dwyer, *supra* note 27, at 51.

International Aviation & Aviation Laws

The current international aviation laws are as much reflections of history as the trends in international politics current when the laws were written. As the world undergoes the changes inherent to the end of the Cold War, there is expectation for more liberal and cooperative international aviation laws.

Current Status in the United States of America

Current policy in the United States concerning aviation is to pursue "Open Skies." The United States DOT has defined open skies for the European Community as:

- Open entry on all routes;
- Unrestricted capacity and frequency on all routes;
- Unrestricted route and traffic rights, i.e., the right to operate service between any point in the United States and any point in the European country;
- Double-disapproval pricing in third and fourth-freedom markets, and
  - *in intra European Community markets, price matching rights in third-country markets;*
  - *in non-intra -European Community markets, price leadership in third country-markets to the extent that the third and fourth freedom carriers have it.*
- Liberal charter arrangement;
- Liberal cargo regime;
- Conversion and remittance arrangement (Promptly and without restriction);
- Open code sharing opportunities;
- Self-handling provisions;
- Procompetitive provisions on commercial opportunities, user charges, fair competition and intermodal rights; and
- Nondiscriminatory operation of and access for CRSs.[39]

What this definition is conspicuously missing are regulations liberalizing airline ownership, control, or cabotage. These elements are key to true competition, but DOT's silence on these issues arises from domestic political problems, including lobbying from the major airlines. These issues should have been included in the definition. Ironically, the new liberalizations in the European Community cover most of the points on the United States agenda for free skies, including the three overlooked by DOT, with the exception of price setting based on market demand, and open entry on all routes.

Within the United States' pledged support of free skies, over several years the United States has turned down offers from Scandinavia, the

39. Joan M. Feldman, *It's Time to Lead, DOT*, Air Transp. World, Oct. 1, 1992, at 62.

Netherlands, Singapore, Switzerland, and Germany - either because the country was "too small" or because, like Germany, they would not agree to some of the United States' demands.[40] In general, the United States' attempt to create free skies globally is stalled. The countries in Europe which the United States would like to have sign a liberal bilateral aviation treaty are unwilling because the United States insists upon several contentious points, such as price deregulation. Asia too is hesitant to sign. As a result, while there has been some progress on cargo agreements, passenger air transport is much where it was at the end of World War II.[41]

CURRENT STATUS IN THE EUROPEAN COMMUNITY: EUROPEAN LIBERALIZATION

Current changes in the structure of international relations in Europe have brought about changes in the European aviation structures. With the birth of the European Community have come measures to achieve unified regulation and to create some form of freedom of the skies for member countries. These measures have also tried to address some of the larger air transportation problems in the European Community.

Air Transport problems in the European Community

Slot-Allocation

One issue that is a major problem in the European Community is slot-allocation. "Slots" are the times designated to airlines for take off and landing. In allocating slots, consideration must be given to air traffic control capacity, runway capacity, and building capacity. Airports are congested, and the slots available are minimal. The slots are allocated on a basis of "historical precedence." This means that take off and landing spots, once they are assigned to an airline, remain the "property" of that airline as long as they wish to renew their application for possession. Up to 80% of the slots in many of Europe's most congested airports, such as London's Heathrow, or Paris' Charles de Gaulle, are awarded on this principle. For example, British Midland Airways has 13% of London's Heathrow Airport slots.[42] With the beginning of airline liberalization in the European Community, there were calls from abroad to reform this method of slot-allocation. Richard Branson, for example, the head of Virgin Atlantic, called the "grandfather doctrine" absurd.[43] The Euro-

40. *Id.* at 59.

41. *Id.*

42. Joan M. Feldman, *Alliances: Are We Making Money Yet?*, AIR TRANSP. WORLD, October 1, 1995, at 35.

43. Arthur Reed, *Grandfather is Alive and Well in Europe,* AIR TRANSP. WORLD, May 1, 1992,at 65-67.

pean Community Commission (ECC) did assess the situation, and decided that as the system was functioning well, there was no need to change it. However, some bureaucrats in the ECC would like to see the system reformed. When the ECC examined the slot system initially, it determined that it restricted free market access and entrance, and was therefore illegal. However, "pragmatism ruled" and a group exemption was granted to make it legal.[44]

In December 1990, a draft regulation proposed by ECC Commissioner of Transport Karel van Miert, was adopted to create common rules for the allocation of slots in crowded European Community airports. This regulation provided for:

- governments to appoint traffic coordinators responsible for allocating slots at congested airports;
- increased transparency in the allocation of slots among airlines by making available for consultation all the information on which slot-allocation decisions are based; and
- the creation of pools of available slots, allocating at least 50% of the pool to new entrants, giving up slots to new entrants under specific conditions by certain holders if the pools proved inadequate, and reciprocally allocating slots when new routes were created.[45]

In addition, the Council requested the ECC to create a code of conduct for slot-allocation predicated on the principle of nondiscrimination based on nationality.[46] The European Community's concept of slot-confiscation has the European Community airlines worried; the International Air Transit Authority (IATA) argues that this act would spell disaster for scheduling. IATA is also worried by the ECC's desire to distance the flight schedulers from the airlines. The ECC wants to make flight schedulers answerable to their government, and not dependent on the airlines. Without slot-allocation, however, the need for increased code sharing would be mitigated.

Additional Problems

There are other problems in the European Community, which may or may not be solved through liberalization. Airport congestion, air traffic control (ATC), and competition from high speed trains are three such areas. ATC in Europe is currently fractured, each country maintaining control over their own airspace. While most agree that the system needs to be unified, it is more of a political problem than a technical problem; states do not want to give up sovereignty over their airspace. In addition,

44. *Id.* at 66.
45. *Id.* at 65.
46. *Id.*

issues remain over state aid to loss-making European Community airlines, and the question of whether the European Community should take over the formation of bilateral agreements for the countries which are members.

Unification of Air Transport Regulations

Joint Airworthiness Requirements

While the European Community is still deciding if it should negotiate bilateral aviation agreements for its member countries, one step which has been taken to unify the air transport regulations in Europe is the harmonization of maintenance standards. Known as Joint Air Worthiness Requirements (JARs), these air transport standards apply to aircraft constructed and operated internationally, and have been evolving since the Chicago Convention of 1944.[47] However, only the United States, with FARs, and the United Kingdom, with BCARs, have developed detailed codes of practice. The rest of the world generally chose between following the United States or the United Kingdom, although some countries amend the codes to suit their needs.

The first move toward creating an international standard of air worthiness came in the early 1960's when France, Britain and the United States entered into an agreement to develop a supersonic jet. The United States subsequently withdrew from the project, but France and Britain went ahead with the construction, and as construction of the jet proceeded in both countries, air standards and requirements were developed jointly. The same process occurred for the development of the Airbus in

47. As of 1992, the current state of the JARs was:

Purpose	Code	Status
Large a/c design	JAR25	Complete
Engine design	JAR E	Complete
APU design	JAR APU	Complete
Very light a/c design	JAR VLA	Complete
Equipment	JAR TSO	Complete
Commuter a/c	JAR23	Spring '92
Helicopter design certification procedures	JAR21	work in hand
Operators maintenance	JAR-OP 1/3	Chapter 7 to be finalized
Certifying staff qualifications	JAR65 (E)	preparation
Airworthiness directives	JAR39	Not begun
All Weather Operations	JAR AWO	Complete
Propeller design	JAR P	Complete
Sailplanes	JAR22	Complete
Maintenance organizations	JAR145	Complete
Light a/c (not commuters)	JAR23	Complete
Helicopter design	JAR29	Started '91
Ops (commercial air transport)	JAR-OPS 1&2	in preparation
Ops (other than public transport)	JAR-OPS Pt. 2	begun '92
Recreational a/c maintenance	JAR91	not begun

Arthur Reed, *JARS at Hand*, AIR TRANSP. WORLD, June 1, 1992, at 44-45.

the late 1960's and early 1970's. Here, Germany, Britain, and France developed JARs to address, initially, large transports, their engines, and their components. By 1989, the scope of the JARs had been widened to include operational requirements. The ECC adopted a regulation in December of 1991 to incorporate all existing JARs into European Community law. The regulation came into effect on January 1, 1992. It is expected that all future JARs will also be incorporated.

JARs are not only applicable to the European Community states. JARs are developed and enforced by members of the Joint Aviation Authority (JAA), who are all members of the European Civil Aviation Conference, (ECAC), established in 1955 with the support of the ICAO. There are 19 member states of the JAA.[48] Each of these 19 states sends a representative to form a committee to oversee the work of the JAA. The FAA is responsible for JARs concerning airworthiness, design and maintenance, and operations. It does not regulate air-traffic control, accident investigation, or airfield licensing.[49] The FAA committee delegates the bulk of its work to an executive board consisting of five of its members: France, Germany, the Netherlands, Britain, and Sweden. The first four were chosen because their countries have adopted JARs as their sole codes, the latter was chosen as a representative of the smaller countries. Chairmanship rotates annually among the primary four representatives. The final authority on policy decisions is the JAA board, composed of the general directors of aviation of the 19 member countries.[50]

Aircraft must receive JAA certification for the JAA standards to apply, but the authority plans to review additional national requirements for most larger aircraft to create a commonly accepted safety standard which will meet the intentions of the JAR for larger aircraft design (JAR25).

The JAA and the United States Federal Aviation Association (FAA) cooperate to reduce differences between the FAA and JAA regulations. The head of Britain's operating standards, John Saul, notes that many JAA FARs are much more comprehensive than the safety standards established by the FAA. "From a comparative study of FARs, ICAO Annex 6 Part 1 and existing national operating regulations within JAA states, the finding was that many areas were inadequately covered by [existing] United States regulations."[51] How to deal with such differences remains an issue; negotiations between the FAA and JAA continue.

48. Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom, and the former Yugoslavia. *Id.* at 44.

49. *Id.*

50. *Id.* at 44-45.

51. *Id.* at 46.

The "Third Package Liberalizations"

The European Community has been introducing changes to its air traffic laws over the past decade. The most recent change is the European Community's "Third Package" of liberalization rules, introduced in February of 1993. Before the Third Package was introduced, the then European Community Transport Commissioner, Karl Van Miert, stated that the scheduled liberalization of aviation in Europe was "a real revolution" slated to be in full swing by the end of 1992.[52] The system which will replace the aviation norms established by the Chicago Convention is a large, single market with more competition than originally available.[53] The policy in the European Community will not be complete deregulation, as in the United States. Instead, there will be competition rules, with the hope that such rules will prevent the domination of the market by a few big carriers. This, according to the Transport Commissioner, should prevent the smaller routes from losing their viability.[54]

The "Third Package Liberalizations" Successes

The Third Package consists of measures designed to liberalize aviation in the European Community. Rules for air carrier licensing, long the prerogative of individual states, have been codified for the whole of the European Community. Licenses continue to be delivered by individual states, but in accordance with the new regulations, which were developed to be community-wide, nondiscriminatory, and generally more liberal than the previously existing rules. The new rules will be coordinated through the JAA. The main accomplishment of the renovated air carrier licensing rules is the ability of citizens of one European Community country to establish airlines in another European Community country, as long as financial and safety standards are met.[55]

As a result of the Third Package, market access has also changed to a more liberal format. When a carrier is licensed as an European Community carrier, the airline is able to fly any route within the European Community, including all intra-European Community third, fourth, fifth, sixth, and seventh air freedoms international routes. Eighth air freedom flights, domestic cabotage, were not scheduled to come into effect until this year. However, a compromise was reached until then, because "consecutive cabotage" was allowed. This meant that if an international carrier wanted to fly another country's domestic route, it had to add this route as a leg of an international flight into the foreign country. Capacity on such

52. Arthur Reed, *Liberalization on Pace,* AIR TRANSP. WORLD, Feb. 1, 1992, at 62.
53. *Id.*
54. *Id.* at 64.
55. Arthur Reed, *Not Quite Cabotage,* AIR TRANSP. WORLD, Sep. 1, 1992, at 66.

domestic flights was limited to 50% of seasonal capacity on the international leg of the flight. Both of these restrictions ended on April 1st of this year, when "stand alone" cabotage took effect. Three European Community members, Britain, Ireland, and the Netherlands, wanted stand alone cabotage from the onset of the agreements, but the requests for an extended transitional period from France, Spain, Germany, and Italy were honored.[56]

Finally, the Third Package also liberalizes schedules for fares and rates. There is now complete pricing freedom for European Community airlines on intra-European Community cargo flights and for chartered flights. Scheduled international passenger flights within the European Community will be protected from fares that are "excessively" high or "predatorily" low. In either case, a European Community country can challenge a fare by withdrawing it, known as "single disapproval." The withdrawal will stand as long as it is not challenged by another European Community country involved in the fare, or by the ECC, known as "double disapproval." Protest must be lodged within fourteen days, and disputes between European Community states are resolved by the ECC.[57]

The "Third Package Liberalizations" Shortcomings

For all of these liberalizations, the Third Package fails to address a few serious problems in the current European Community air transport system. First, it does not resolve the problem of slot-allocation discussed above. There have been proposals drafted on this subject, suggesting the confiscation of slots from incumbent airlines and handing them over to new market entrants.

Second, the Third Package does not open all European Community routes to all European Community airlines. Instead, it gives member states, with the approval of the ECC, the right to limit access to routes where problems of congestion or environmental stress can be proven, or where other modes of transport are present and providing sufficient levels of service.

Third, the Third Package does not address aeronautical relations with respect to the applicability of European Community competition law to air routes to and from the European Community, or the applicability of European Community law to the field of traffic rights, with countries located outside of Europe. To address these issues, the European Community is considering negotiating bilateral agreements on behalf of all

56. *Id.* at 67.
57. *Id.*

member states.[58]

Finally, the Third Package does not address external aviation relations with non-European Community countries located within Europe. With the creation of several new nations in the past decade, the situation has become extremely complicated. One step that the European Community has taken to address this issue is to sign the European Economic Area Agreement with the seven signatories of the European Free Trade Association (EFTA) countries.[59] This agreement created a free-trade area between the European Community countries and the EFTA in 1993, making a liberalized air-transport zone which embraced the Third Package. In addition, the European Community has signed "general association agreements" with the former Czechoslovakia, as well as Hungary and Poland. These agreements ensure that mutual market access conditions should be dealt with by special transport agreements negotiated after the general association agreements came into force.[60]

Consequences of the "Third Package Liberalizations"

The consequences of the Third Package have been favorable for liberalization. As of January 1, 1995, *Air Transit World*, noted several trends resulting from it. First, some fares are down and spread over a wider range of products, leading to lower yields. This has led airlines to seek better means of yield management. Second, there is increased competition, with new routes open and increased frequencies on existing routes. Third, there are fewer airlines than expected, although there has been an increase in numbers. Fourth, the true impacts of the liberalizations have been occluded by recession, and often are hindered by decisions of the states, most notably France, to nationalize airlines. For instance, there has been some conflict over France's bailout of Air France (to the tune of $3.6 billion), because it is seen as distorting competition in the marketplace and violating the Treaty of Rome.[61] With this infusion of cash, liberalization faces a set back. Although airlines from Holland and Britain both filed suit claiming unfair competition, this action may be seen as precedent for future infusions of cash into failing national airlines.

The Third Package is viewed by many as only a starting point. For example, Herman De Croo, former Belgian Transport Minister, and chairman of the *Comite des Sages*[62] thinks that liberalization in the Euro-

58. As stated above, however, this idea has met resistance.

59. The EFTA includes Austria, Finland, Iceland, Liechtenstein, Norway, Sweden, and Switzerland. Reed, *supra* note 55, at 67.

60. *Id.*

61. Bruce Crumley, *Liberalization After Two Years; the Government,* AIR TRANSP. WORLD, January 1, 1995, at 45-46. This article provides an overview of these four points.

62. A group of twelve independent experts appointed by the European Community Com-

pean Community is on track, but needs to be pursued further. As far as the European Community's relation to the United States, De Croo states that the European Community "must adopt a common position and relationship with the United States. The combination of increased business, greater prosperity, and an improved relationship with the United States would bring about complete liberalization even faster."[63] However, others caution against allowing the European Community to negotiate bilateral treaties for the whole of Europe, cautioning that a gain for one country may be a loss for another. For example, the European Community could make a bilateral aviation treaty with the United States creating a new route for United States airlines into France, in exchange for the United States providing a new route for a German carrier.

Current Status in Central America

Many of the same problems facing airlines in the European Community are being faced by the Central American countries. These problems include airport congestion, outdated ATC's, and incompatible hardware. Airport congestion results from the size of most of the airports. In addition, many smaller countries share their civilian airports with their military, which results in unscheduled closures related to military exercises. Slot-allocation in Central America does not face the same problems as in Europe, as it is not subject to grandfathering. The governments, however, normally assign the slots, which leaves the system vulnerable to political influences.

ATC in Central America is controlled by COCESNA (*Corporación Centro-Americana de Servicios de Navegación Aérea*).[64] One goal of COCESNA is to unify ATC, which is currently different in each country in Central America. As one airline representative said, due to differences in ATC, it is safer to land in some countries than in others. If it can be avoided, he advised, never fly into Tegucigalpa, and if the urge strikes to travel to Guatemala, try to arrive at noon, because the fog in the morning and the darkness at night create challenges for the navigation system to overcome. ATC could be coordinated internationally by the governments of each country since it is a service provided by the governments, and installing compatible equipment would be an excellent start. However, because COCESNA is not a highly unified body due to the fact that

mission in 1994 to "flesh out the state of air transportation and come up with suggestions for solving its problems." The findings of the committee were that the liberalization process is on the right track, but must be pursued further in many areas. *See id.* at 53.

63. *Id.*

64. COCESNA was established in Tegucigalpa on February 26, 1960 and ratified by Costa Rica on November 20, 1963 through Law No. 324.

its leadership rotates between countries every two years, such an action is unlikely.

Unlike the situation in Europe, there are no government run airlines in Central America. The problem of government bailouts, which exists in Europe, is therefore non-existent. Governments do, however, protect the airlines in their countries with some restrictions, similar to the situation in Europe prior to the Third Package Liberalization.

Aviation History in Central America Prior to the Push for Free Skies

Prior to 1978, when the United States began its push for free skies, there were two major players in Central America, TACA (*Transportes Aéreos Centro-Americanos*) and Pan Am, struggling for dominance. Based in El Salvador, TACA had a virtual monopoly on air transport in Latin America prior to 1945. When Pan Am entered the market at the end of World War II, it bought roughly 40% of most domestic airlines. Pan Am became the national airlines of Latin America, in part due to its access to technology and its commitment to the technical support of the national airlines in which it had invested. Even so, Pan Am's competition with TACA nearly drove it out of business. However, as local national investors began to purchase the stock of Pan Am, Pan Am lost interest in Latin America. Pam Am began to compete with local airlines, but was protective of them due to its history. Before the United States moved to create liberal bilaterals, the general state of aviation in Latin America was that each country had a duopoly; their own national airline, and Pan Am. For example, Pan Am flew from Miami to San José, stopping over in Guatemala, while LACSA, Costa Rica's national airline, flew directly to Miami. There were no restrictions on types of aircraft, and no other airlines could take part.[65]

The Air Transport Agreement between the USA and Costa Rica

The 1979 bilateral agreement between Costa Rica and the United States changed all of this. It was a result of the United States' commitment to freedom of the skies, as well as of other countries' hesitance to commit to open skies. Costa Rica was an easy target because it had already signed the ICAO's Treaty on International Air Transport, adhering to the five aeronautical freedoms. While the United States had not initially thought to sign an international air transport agreement creating open skies with such a small country, it eventually approached Costa Rica in order to entice some of the larger countries in Europe and Asia to also take part.

José Giralt, current President of the Costa Rican Air Line Associa-

65. Interview with José Giralt, Challenge Air Cargo, Alajuela, Costa Rica (May 23, 1996).

tion (ALA), was the commercial director at LACSA when the bilateral agreement was being negotiated, and took part in the negotiations. The idea of the treaty, he said, was for Costa Rican airlines to be able to fly anywhere in the United States, and for the United States to be able to fly any carrier into Costa Rica. While Costa Rica was flying planes only seating 99 passengers, and in all likeliehood would have benefited from continued protection, it realized "the protective environment could not continue. The idea [of free skies] was unavoidable. But it needed to be done gradually and on an equal basis."[66]

The treaty which was proposed to Costa Rica by the United States was built around five principle points, reflecting the United States' perspective:

- No restrictions on capacity;
- No restrictions on point of origin from the United States;
- No restrictions on flight frequency;
- No restrictions on pricing; and
- No restrictions on traffic.

The same points would apply to Costa Rican Airlines, with one exception; Costa Rican airlines would be limited to five points of destination in the United States, later changed to seven. They are Miami, Orlando, Atlanta, Los Angles, New York, San Juan, and New Orleans. These terms, said Mr. Giralt, were eventually imposed upon the Costa Rican negotiators on a take-it-or-leave-it basis. Costa Rica chose to sign.

After 1979, due to the new bilateral agreement, many United States airlines arrived in Costa Rica, including direct flights by Pan Am and Eastern. LACSA had to move to larger planes, and had to learn to compete. They were nearly driven out of business. One advantage that LACSA had was that it was a smaller organization, and therefore could make decisions much more rapidly. In Mr. Giralt's opinion, this is what allowed LACSA to survive. He sums up that Costa Rica has gained from the agreement through increased tourism, increased traffic, and increased efficiency from competition. Still, he adds that it is ironic that a "free skies" agreement limits Costa Rica's points of entry, and that these limits were established by the country that originally proposed the free skies bilateral.[67]

While Costa Rica has signed bilateral aviation treaties with the United States, Mexico, Spain, Luxembourg, and several of the Central American countries, and while other Central American countries have signed bilateral aviation treaties with industrialized nations, the aviation network in Central America is currently still based on reciprocity. The

66. *Id.*
67. *Id.*

lack of international aviation agreements between Central American States is, according to Luis Brenes, ex-president of the ALA and the representative of United Airlines in the early 1980's, most likely due to competition among the Central American states that to continue to vie for the ability to be the strongest in the region. There is not a strong spirit of cooperation among Central American countries in the field of aviation. The concept of a Central American Aviation Agreement has been discussed on and off for the past 25 years. However, no action has been taken to move toward the realization of this idea.

The future for aviation agreements in Costa Rica specifically, and Central America in general, is uncertain.[68] The United States has proposed a Central American Multilateral Agreement, but little action has been taken.[69]

Central American Take-Over of Scheduled Passenger Flights by TACA

Even without a multilateral aviation agreement, Central America is nevertheless being drawn together by TACA, the largest carrier in the region. Over the past decade it has been buying controlling interests of stock in other countries' national airlines. In some cases (e.g., Costa Rica's LACSA) its official stock holdings are capped by government ceilings (in Costa Rica at 40%), but it still has control of the airline through stock held by citizens working for TACA. While the Costa Rican government officially denies that LACSA is controlled by TACA, one insider noted "if you stop any person on the street and ask him who controls LACSA, he will tell you TACA." Other airlines in which TACA has a controlling interest include Guatemala's Aviateca, Honduras' Sahsa, and Nicaragua's Nica.[70] Due to this strategy, TACA can now offer connections from every capital in Central America to New York, Washington DC, Houston, Los Angeles, Miami, New Orleans, and San Francisco. In addition, the group of carriers has access to Orlando, Chicago, and San Juan. Its major hubs are San Salvador, Guatemala City, and San José, and there is one regional hub in Panama.

TACA has been able to standardize rates throughout the network of countries, invest in new planes, and install a central reservation system for passengers and a parallel system for cargo. TACA's control of other airlines allows it to share equipment, and to make an arrangement similar to code sharing in order to gain access to new ports of entry. However, this has created some problems for free competition. For example, TACA leases planes to LACSA, charging LACSA as much as it wants to,

68. *Id.*
69. *Id.*
70. David Knibb, *U.S. Losing Fight to Ease Bilaterals*, AIR COM., Oct. 25, 1993, at 3, 12.

because LACSA is controlled by TACA. This money is then expatriated from Costa Rica. TACA also sets all of the rates for the airlines which it controls, instead of allowing market forces to determine the price. Additionally, the four airlines which TACA owns are all flying similar routes, in part, it is said, to prevent the smaller airlines from creating new routes and thereby competing with TACA. By thus preventing competition, TACA hopes to take over all air traffic service in Central America.

The bilateral aviation agreements signed by the United States clearly state that the privileges of the agreement will be revoked from a designated airline if a substantive portion and effective control of that designated airline comes into the hands of citizens of countries not party to the agreement. This clause exists in most bilateral aviation agreements. However, the United States, and others, have chosen to overlook this clause.[71]

Cargo Flights in Costa Rica

Most airlines carry some belly cargo on international passenger routes; however they face a limit on the weight they can carry for long distances. In general this weight limit is about two tons. In contrast, a cargo plane can carry 25 tons or more per flight. Cargo flights, like passenger flights, fall into two categories. These are scheduled and chartered. Both arrangements are found in Costa Rica. For example, Challenge Air Cargo flies daily scheduled cargo flights to the United States of America,[72] and Martin Air flies daily chartered flights to Holland.[73]

Scheduled flights apply to Costa Rica's Aviación Civil for a permit to operate under the agreement that they will follow a schedule and operate year round. The advantages of this type of arrangement are that it is easier to get slots allocated, scheduled flights have priority in the time schedule, fuel prices are lower for scheduled passenger flights, scheduled flights have priority for fuel should there be a crisis, and finally, operational costs are lower. In addition, the Aviación Civil charges less for scheduled flights than it charges for chartered flights - a difference of about $800 USD.

Chartered flights, on the other hand, must apply to the Aviación Civil for permission for each flight planned. This must be done two to four days in advance, and has potential to meet bureaucratic or political delays. The advantages of chartered flights are that they are not obli-

71. *See* Costa Rican Law No. 6878, Art. 4 §A, for an example of this type of clause.

72. Interview with José Giralt, Challenge Air Cargo, Alajuela, Costa Rica (May 23, 1996).

73. Interview with Santiago Jimenez, Martin Air Office, San José, Costa Rica (June 24, 1996).

gated to operate year-round, and may therefore skip the off-season. In addition, they can change the flight routing, the times of the flights, and can end operation at any time.

The cargo situation in Costa Rica provides a different look at the competitive philosophies currently prevalent in Costa Rica. As seen above, in the case of TACA's scheduled passenger flights, LACSA and the other airlines which TACA controls are in competition with TACA for a small market. This has led to redundancy in the scheduled flight market, and inability of smaller national airlines (including those controlled by TACA) to expand and open new routes. However, this is not the situation in air cargo transport. Martin Air, privately registered in Holland, flies the same route that KLM flies from San José to Holland, but the two do not compete. KLM flies scheduled passenger flights, while Martin Air flies chartered cargo. The point to notice is that, like the TACA/LACSA relationship, KLM owns 50% of Martin Air. This strategy of sharing the available traffic appears much sounder than TACA's competitive approach toward airlines in which it has heavily invested. The goals are obviously much different, but from a view point of efficiency, the KLM/Martin Air relationship seems much healthier.

Another interesting approach which Martin Air has taken involves Costa Rica's definition of chartered cargo flights. There is no clause in the description which says that the chartered flights can not be scheduled, repeating the same daily flights on a weekly basis. While this appears to be an unfair competitive advantage to "scheduled" chartered flights over scheduled flights, it is most likely beneficial to Aviación Civil and unquestionably beneficial to Martin Air. Competing scheduled cargo carriers feel there should be more to protect them,[74] but if the benefits they are receiving from their current scheduled status really are insufficient, there would be little to lose from following the same path. This decision should be made by the company, not by the government.

Bilateral Aviation Treaties between Costa Rica and Foreign Countries

Costa Rica has signed bilateral aviation treaties with other industrialized nations aside from the United States, including Bolivia, Holland, Luxembourg, Mexico, Spain, and Venezuela. In addition, it has negotiated (but not ratified) a bilateral aviation treaty with the Netherlands. There are, however, no bilateral aviation treaties between Costa Rica and other Central American nations.[75]

The bilateral aviation treaties which Costa Rica has signed run the

74. Interview with Louis Brenes, San José, Costa Rica (June 20, 1996).

75. Interview with Tomás Nassar, San José, Costa Rica (June 11, 1996). For a complete analysis of these treaties, *see* Appendix 1.

gamut between very liberal and very conservative. The most liberal treaty is with the United States. The most conservative is with Mexico. There are several issues involved in this analysis. Some points covered in the bilateral aviation treaties exist in the majority of the treaties, including the first and second air freedoms; revocation of authorization when a substantial portion and the effective control of the airline is not in the hands of the contracting party or its nationals; and when laws and regulations are not followed; application of national laws and regulations; aviation documents must meet ICAO standards, and documents issued to nationals of the contracting party by the other contracting party for flight above the territory of the former may be revoked; commitment to act in accordance with international safety standards; earnings freely convertible; exemptions from customs and taxes for airline supplies; user fees equal to fees for nationals, and just and reasonable; and methods for settlement of controversies.

Other elements are more contentious. These include the number of airlines that may be designated; the commercial opportunities which will be provided; types of legal competition, including limits on traffic volume, frequency, and types of aircraft, as well as the elimination of illegal competition, and the disruption of cargo; determination of prices; if statistical data will be required to be shared; and finally, the route rights which will be provided. The more liberal treaties include more of these contentious issues. Yet, to make these treaties even more liberal, one would need unrestricted access to any point in the countries of the signatories.

Although the United States/Costa Rican treaty is, in general, the most liberal of the agreements, it is one of the most unequal when it comes to route rights; while the majority of the other agreements provide for route rights on a reciprocal basis, such as Luxembourg, the Netherlands, Spain, and Venezuela, the United States agreement is the most imbalanced. The United States has unlimited access to the number of departure points, intermediate points in Costa Rica, and points beyond, while Costa Rica is limited to one point of departure, an unlimited number of intermediate points, seven points in the United States, and three points beyond. None of Costa Rica's other agreements are this biased.[76]

Possible Changes to Current Aviation Laws

With the current status of international politics, there is a great push to arrive at international aviation agreements which encourage liberalization and privatization. The US and Europe have been working toward such agreements, as has Costa Rica, through bilateral treaties. Central

76. See Appendix 1, at 4.

America, on the other hand, has not made the necessary commitments to arrive at an accord which will bind the area together as an international aviation zone.

UNITED STATES

When the attempt to create a general worldwide multilateral aviation agreement failed at the Chicago Convention, countries switched to a bilateral approach. There has been, however, a growing call within the United States to return to the multilateral approach. Proponents of the idea include a 1994 presidential commission, and public and private sectors within the United States.[77]

The 1994 report of the United States National Commission to Ensure a Strong Competitive Airline Industry states that, in their opinion, the current bilateral system is no longer sufficient for the international sphere. The Commission argues that the current system does not work to encourage growth in the global trade environment, and that there are many restrictions under the current system which hamper the efficiency and competition in international markets, damaging the entire United States economy. The Commission further asserts that the current bilateral situation "cannot adequately protect or enhance United States interests" and that by continuing to rely on bilaterals, the United States will see an erosion of those interests.[78] It continues to argue that in the end, bilaterals are a zero-sum game, where not only does neither party gain, but both lose. The recommendation of the Commission was for the government to work to create a new, growth-oriented international aviation framework, which would allow the United States to use its competitive advantages to attain full success. The Commission believes that to do this, the United States government will have to move away from the present system of bilaterals, toward one based on multilateral arrangements. These agreements may be regional in the beginning, but eventually should grow to span the globe. The Commission also recommends that such a multilateral operating environment should be free of discrimination and restrictions, and developed in such a way that the multilaterals cover provisions for passenger, cargo, and charter services; cross-boarder investment and ownership; comparable traffic rights; fifth and sixth air freedom traffic rights; fair market access and business opportunities; government subsidies; and customs and immigration facilities.[79]

Following up on the report of the Commission, Washington D.C. lawyer Michael Goldman presented five strategies which the United

77. Goldman and Murphy, *supra* note 36, at 44-47.
78. *Id.*
79. *Id.*

States needs to implement in the short term while it negotiates multilateral agreements:

- Negotiate more liberal open skies bilaterals with those trading partners that want them, regardless of the market size. This is entirely consistent with the National Commission's longer term recommendation on negotiating a multilateral open skies agreement;
- Challenge the European Union to assume greater responsibility for air transport matters with the United States by seeking high-level negotiations on a United States-European Union all-cargo agreement and a United States-European Union air transport reciprocal investment treaty;
- As recommended by the National Commission, ask Congress to amend the Federal Aviation Act to allow, under conditions of the openness and reciprocity, foreign carriers to own as much as 49% voting stock in United States airlines and exercise control commensurate with their real investment stake as real open skies are not possible without an open climate for airline investment;
- Focus the United States' efforts on bilateral negotiations that can expand service in markets which contribute to the United States' economy. By the same token, avoid bilateral disputes, however well founded, that are contentious and promise few direct economic benefits to the United States; and
- Avoid wasting effort in negotiating restrictive agreements that fail to advance the open skies goal. Such negotiations signal that the United States will settle for a continuation of projectionist agreements or a roll back of liberal ones. [The United States] is better off without an agreement than it is with a new restrictive one.[80]

Goldman continues that if individual governments do not want to negotiate, the United States should push for an aviation trade agreement with the European Union. This, he proposes, should begin with a liberal open skies cargo agreement, and then move on to a treaty governing investments by European Union airlines in United States carriers and vice versa. The United States should also assign its highest priorities to negotiations that seek to open markets, and lowest priority to those that seek to continue bilateral restrictions. Finally, Goldman concludes that the United States should not continue to insist on its version of free-skies on a take-it-or-leave-it basis.[81]

A multilateral system, if it could be attained, would have many advantages over the current bilateral situation. The benefits of a multilateral agreement system include reducing restrictions imposed by bilaterals, facilitating the creation of global transportation networks as ownership and control limitations are removed, and limiting the ability of individual

80. *Id.* at 45.
81. *Id.*

nations to use non-tariff barriers as leverage to obtain more economic rights. Smaller countries would also benefit by receiving the same rights as larger states.

The key issues which would have to be addressed to ensure the success of a multilateral agreement system include ensuring effective market access, the creation of fair competition rules, effective and timely dispute resolution, and accession which is open to all, but through the compliance with certain criteria.

The approaches which may be followed to create a multilateral framework include one large multilateral agreement, several regionally based agreements with crossover by countries who are interested, or an agreement created by linking together liberal bilaterals. In the latter situation, states would append their bilaterals or re-negotiate them to arrive at identical, liberal provisions ensuring fair market access and fair competition rules, which would lead into the eventual integration into a multilateral agreement.[82]

EUROPE

As opposed to the United States' stagnated movement toward free skies, the current changes in the European Community will eventually bring about an entirely different structure for aviation. Full cabotage took effect on April 1, 1997,[83] but due to recessions following the Gulf War, as well as infrastructure problems, e.g., ATC congestion, shortage of space in the airports, and competition from high speed trains, radical changes are likely to be a long way off. However, the European Union is at least making an effort to unify and liberalize their workings. While the issues that present problems for the European Union need to be addressed at some point, measures are being taken to change the state of Europe's aviation for the better.

LATIN AMERICA

Costa Rica

There are four approaches Costa Rica could take to strengthen its aviation position. First, increasing the availability of different air services in Costa Rica could only help both efficiency and commerce. To increase availability, Costa Rica would need to allow a greater number or airlines to fly into and out of San José. Such liberalization could be done in three ways. First, Costa Rica could renegotiate its existing bilateral aviation agreements, such as those with Mexico, the Netherlands, and Venezuela,

82. *Id.*

83. Pierre Sparaco, *Regional Airlines Special Report: European Regionals Expand in Deregulated Market*, AVIATION WK. AND SPACE TECH., May 12, 1997, at 60, 61.

to remove the limits on the number of airlines currently allowed to be designated to fly between signatories. Second, Costa Rica could provide incentives to airlines to open up new routes. Third, it could continue to expand the capacity of the San José international airport.

Martin Air has shown that increased availability of air services can have a positive impact upon business. Martin Air believes that it has raised the quantity and quality of exports from Costa Rica; accounting for the increase of the quantity of exports due to its ability to meet excess demand for exportation, and accounting for the increase in quality by its direct service to Holland, without passing through Miami as other airlines do on the way to Europe. By providing direct service, Martin Air cuts the travel time of perishables from 35 hours, with layover and possible hold-up in the United States, to 14 hours. The Martin Air representative in Costa Rica, Santiago Jimenez, says that this decrease in transit time has decreased the claims against the airline for damages goods "to close to zero."[84]

While most protectionist thinkers in Costa Rica may argue that such moves would destroy LACSA's competitiveness, there are two elements to consider. First, competition increases efficiency, as seen in Europe, and second, LACSA is under the control of TACA, and increased competition may force TACA to rethink its current route redundancy and allow LACSA to branch out to new routes.

The second approach Costa Rica could take to strengthen its aviation position involves the current United States/Costa Rican Treaty. The United States' goal of open skies is reflected in the 1979 United States-Costa Rican bilateral aviation treaty. However, the treaty is restrictive on the most important of the United States' eleven "open-skies" air freedoms.[85] While the agreement allows for unrestricted capacity, frequency, and types of aircraft operated, competitive pricing, liberal charter and cargo operations, earning conversions and remittance, self handling and provisions which promote commercial opportunities, liberal user fees, and fair competition, the 1979 United States-Costa Rican treaty did not create unrestricted route and traffic rights-that is, the right to operate services between any point in the United States and any point in Costa Rica. Instead, Costa Rica is limited to a set number of hubs in the United States. The United States principle of free skies is in direct contrast with this. Since the United States has signed liberal bilateral aviation treaties which include this last provision, Costa Rican aeronautical authorities should look into the possibility of re-negotiating a more flexible schedule of routes.

84. Interview with Santiago Jimenez, Alajeula, Costa Rica (June 24, 1996).

85. Outlined *supra* at page 314.

Third, Costa Rica could strengthen its position in aviation by following KLM's lead, and requesting immunity for its designated airlines from the United States anti-trust laws. This would allow Costa Rican airlines, specifically LACSA, to have a greater market share.

A Multilateral Aviation Agreement for Central America

A fourth method which Costa Rica could follow to strengthen its global position would be to join forces with the other countries in Central America. A multilateral aviation agreement between Central American countries would have several benefits. First, it would create for all Central American countries greater bargaining possibilities with the rest of the world, notably the United States and Europe. For the purpose of negotiating unrestricted route and traffic rights, or any other aviation liberalization, the possibility of signing such an agreement with all of Central America may easily entice foreign countries into action.

Second, an Intra-Central America multilateral agreement would benefit the Central American countries by creating a standard of operation. Currently there are no bilateral aviation agreements within Central America. Air transportation runs on the principle of precedence; a situation which can be confusing and difficult to deal with legally. A multilateral agreement codifying intra-Central American aviation laws, would unify the airtransport processes, making flights within Central America easier to implement.

There are several options for a multilateral agreement within Central America. It could be a framework, just enough to link the countries together, and allow bilaterals to create the majority of the liberalizations and concessions. Such a multilateral could include the first and second air freedoms, leaving the third, fourth, fifth and others up to the individual countries. In such a treaty, there could be a commitment to legal competition consisting of equal and just opportunities for competition, and the elimination of illegal competition, while limitations on traffic volume, frequency, and types of aircraft are established bilaterally. Statistical data would have to be provided, and route rights established on the condition of equality between nations. Such a multilateral, while restrictive, would bind the countries together. Recalling the weakness of the ICAO Chicago Convention, however, such an accord may not be sufficient to serve all of the needs of all of the countries.

A more favorable alternative would be to create a liberal multilateral aviation treaty between Central American countries. Such an agreement would be comparable to the United States definition of free skies. The agreement would include the first, second, third and fourth air freedoms established for all signatories, without restrictions on routes or traffic rights, thereby creating the ability for any Central American country

to fly to any other Central American country at any time, in any quantity or capacity. While such an agreement would be difficult to achieve, the positive impacts would be tremendous: establishment of new routes; increased competition; increased efficiency; increased air service; and increased exports of goods from Central America, as goods could pass freely through Central America to countries with route rights to the United States and Europe. Best of all, the national airlines would be more likely to retain their nationality, remaining independent of TACA, because TACA would be free to fly where it would like within Central America, and would not need to control other airlines to meet its goals. Thus, the threat that Costa Rica or any other country would lose the rights granted to their national airlines due to questions of ownership or control, would be mitigated.

A final alternative would fall somewhere between these two solutions. A multilateral agreement within Central America which would allow code sharing on a multinational level, such that any airline of any signatory of the agreement could code-share with any other airline without limitation, would have a similar effect. However, such a solution may not remove the threat to LACSA and other national airlines over issues of sovereignty, as such code sharing may only increase the power of the dominant airline.

Conclusion

An global aviation alliance is a long way off. In fact, it may even be impossible. However, this does not mean that changes in international aviation law are not, and should not, be underway. There are many measures which countries can take to assist their aviation industries on both national and international levels. This paper has examined the past, present, and future possibilities for change on the international level, comparing Europe, the United States, and Central America, with an emphasis on Costa Rica. Of these three areas, the first two are making valid efforts to improve the standing of aviation. While there are clearly steps which remain to be taken in Europe and the United States, the problems are widely recognized and accepted as issues to be addressed. Within the next decade, there will likely be some change for the better. The area which does not appear to be taking an active lead in aviation liberalization or reform is Central America.

The current state of aviation law in Central America, while functional, has many elements which could be changed for the better. Legally, there is no reason why the governments of Central America should not form an aviation block, allowing the first through fifth air freedoms, and eventually even cabotage and unrestricted code sharing. Whether

these countries' infrastructure and current economic and political structures could handle such a move is a separate issue. However, to refuse to make such a move based on these latter issues is to stifle growth that is needed to increase business and tourism based air transport, which would in turn stimulate the Central American economies. Such hesitance to form an alliance, witnessed over the past twenty-five years, is self defeating, especially with the recent boom in non-traditional agricultural exports.

Costa Rica has avoided the issue by creating a viable network of international aviation treaties with industrialized countries. They have created avenues for air transport for their produce and tourists, as well as nationals traveling abroad. However, the possibility of increasing their international transport, by serving as a hub for the transport of goods and passengers from Central America to the United States and Europe is unrealized. A move such that would assist in the realization of these goals could only be beneficial for Costa Rica.

In addition, Costa Rica should continue to challenge their aviation partners to create more liberal treaties, with an unlimited number of possible designated airlines and an unlimited number of points of departure and arrival in the other parties' territory. In renegotiating their treaties, Costa Rica should begin with the United States, pointing out that the United States' current definition of free skies is not fully covered in the current bilateral agreement. At this time, the United States may be willing to concede more rights to Costa Rica, in hope of using such a treaty as an example to the more stubborn European nations, as it did in 1979.[86]

Over the next few years, as Costa Rica tries to decide what steps it should take to increase the status of its aviation, it should bear in mind that by not working to change the status of aviation in Central America and the aviation agreement with the United States, it denies itself benefits that can only come about with such liberalization.

86. On May 9, 1997, President Clinton signed a series of bilateral accords with the leaders of Nicaragua, Honduras, Guatemala, Belize, El Salvador, and Costa Rica on trade, drugs, immigration, aviation, and the environment. The new aviation agreements include "open skies" accords, which create new air routes and aim to reduce travel costs. The deals will allow passenger and cargo services between any point in either country, as well as to third countries. Additionally, airlines will be able to price their services, and capacity restrictions will be removed. Johanna Tuckman and Agencies, *Clinton Signs Series of Deals at Central America Summit*, FIN. TIMES, May 9, 1997 (London Ed.), at 3.

APPENDIX I
COMPARISON OF COSTA RICA'S INTERNATIONAL AVIATION AGREEMENTS

	Treaties								Memorandums		
	BOLIVIA	LUXEMBOURG	MEXICO	NETHERLANDS	SPAIN	USA	VENEZUELA	ARGENTINA	COLUMBIA	ECUADOR
DEFINITIONS	✓	✓	✓	✓	✓	✓	✓			
RIGHTS GRANTED a) first freedom	✓	✓	✓	✓	✓	✓	✓			✓
b) second freedom	✓	✓	✓	✓	✓	✓	✓			✓
c) rights granted for routes (third and fourth freedoms)	✓	✓	✓	✓	✓	✓	✓			✓
d) fifth freedoms	D		L	L	L	D	L			
DESIGNATION & AUTHORIZATION a) one airline only	–	–	✓	✓	–	–	✓		–	
b) two airlines only	–	–	–	–	✓	–	–		✓	
c) unlimited number	✓	✓	–	–	–	✓	–		–	✓
REVOCATION OF AUTHORIZATION a) when a substantial portion & effective control is not in hands of contracting party.		✓	✓	✓	✓	✓	✓			✓
b) when laws and regulations are not followed.	✓	✓	✓	✓	✓	✓	✓	✓		✓
c) when security standards are not maintained.						✓				
d) when the airlines stop flying said route.				✓	✓		✓			✓

	BOLIVIA	LUXEMBOURG	MEXICO	NETHERLANDS	SPAIN	USA	VENEZUELA	ARGENTINA	COLUMBIA	ECUADOR
APPLICATION OF LAWS a) national laws and regulations apply	✓	✓	✓	✓	✓	✓	✓			✓
b) prohibit flying above certain zones	✓				✓					
SAFETY a) documents must meet ICAO standards.			✓	✓	✓	✓	✓			✓
b) documents issued by other party to nationals may be rejected.	✓	✓	✓	✓	✓	✓	✓			✓
c) Consultations for security						✓				
AIR SAFETY a) commitment to act in accord w/ int'l. conventions	✓			✓		✓	✓			✓
b) requires airlines to meet security reqs.	✓			✓		✓	✓			✓
c) will assist other in time of threat or incident	✓			✓		✓	✓			✓
COMMERCIAL OPPORTUNITIES a) offices				✓		✓				
b) personnel	✓			✓	✓	✓	✓			
c) own ground crew	✓			✓	✓	✓	✓			
d) hired ground crew	✓			✓		✓				
e) money freely convertible	✓			✓	✓	✓	✓			✓
RIGHTS FOR CUSTOMS AND TAXES exemptions for: a) goods left on board	✓	✓	✓	✓	✓	✓	✓			✓
b) supplies brought and used on board in the other's territory	✓		✓	✓	✓	✓	✓			✓

	BOLIVIA	LUXEMBOURG	MEXICO	NETHERLANDS	SPAIN	USA	VENEZUELA	ARGENTINA	COLUMBIA	ECUADOR
c) unload goods under supervision	✓			✓	✓	✓	✓			✓
d) exemption or MFN treatment to supplies brought in on board		✓								
USER FEES: a) must be just and reasonable	✓			✓	✓	✓	✓			✓
b) may not exceed fees charged to nationals.	✓	✓		✓	✓	✓	✓			✓
LEGAL COMPETITION a) equal and just opportunity for competition	✓		✓	✓		✓	✓			✓
b) elimination of illegal competition				✓		✓	✓			✓
c) no limits on: Frequency	–			–	–	✓			–	
Traffic volume			✓	✓	✓	–			–	
Types of aircraft	✓			–	–	✓			✓	
d) limitations on: Frequency	✓		✓	✓	✓	–			✓	
Traffic volume			✓	✓	✓	–			–	
Types of aircraft	–			✓	✓	–			–	
e) disruption of cargo allowed	✓		✓	✓	✓	✓				
PRICES a) determined by market						✓				
CONSULTATIONS a) in relation to this accord		✓	✓	✓	✓	✓	✓			✓
b) provision of statistical data	✓				✓		✓		✓	

	BOLIVIA	LUXEMBOURG	MEXICO	NETHERLANDS	SPAIN	USA	VENEZUELA	ARGENTINA	COLUMBIA	ECUADOR
SETTLEMENT OF CONTROVERSIES										
a) 1st by diplomacy	✓	✓			✓	✓				✓
b) arbitration		✓	✓		✓	✓				✓
c) council consisting of 3 arbitrators			✓		✓	✓				✓
TERMINATION										
a) 6 Months	✓		✓				✓			✓
b) 9 Months				✓						
c) 12 Months		✓			✓	✓				
DURATION										
a) until terminated	✓	✓		✓	✓	✓	✓			
b) three years			✓							
MULTILATERAL ACCORD										
a) the accord will incorporate changes	✓	✓	✓	✓	✓	✓	✓			
AMENDMENTS										
a) by mutual consent		✓	✓		✓		✓			
REGISTRATION WITH OACI	✓	✓	✓	✓	✓	✓	✓			✓
ENTRANCE INTO FORCE										
when ratified	✓	✓	✓	✓	✓	✓	✓			
b) entrance into force immediately										✓
c) provisional until ratified					✓					
ROUTE RIGHTS:										
Number of points –										
a) of departure of the signatory		*	2	>	>	>	>		1	2
b) intermediate		>	>	7	>	>	1		0	0
c) in Costa Rica		*	1	>	1	>	1		1	1
d) further		>	>	*	>	>	2		0	*

	BOLIVIA	LUXEMBOURG	MEXICO	NETHERLANDS	SPAIN	USA	VENEZUELA	ARGENTINA	COLUMBIA	ECUADOR
Number of points – a) of departure for Costa Rica		*	1	>	>	>	1		1	1
b) intermediate		>	>	6	>	>	>		0	0
c) in country of signatory		*	2	>	1	5	2		1	2
d) further		>	>	*	>	3	1		0	*
TARIFFS a) scheduled						✓				
b) "reasonable"		✓	✓							
c) means for dispute resolution.										

D = denied
L= limited
> = greater than one, unspecified
* = unspecified

Appendix II—Bolivia and Luxembourg

Appendix II

International Aviation Agreements Held By Costa Rica[1]

	BOLIVIA, 3 March 1995	**LUXEMBOURG**, Signed 8 June 1961; ratified 19 Dec. 1966 Law # 3839
Definitions	(Article 1) Definitions	(Article 11) Definitions
Rights Granted	(Article 2) 1. Each contracting party concedes to the other contracting party the rights specified in the present accord, with the purpose to establish regular international air services, in the routes established in the annex attached to the present accord. 2. Conforming with the stipulations of the present accord, the airline or airlines designated by each contracting party, will have, during the operation of the agreed air services, the following rights: a) To fly above the territory of the other contracting party without landing in said territory. b) to make stopovers for non-commercial purposes in the territory of the other contracting party, and c) to embark and disembark international traffic (of passengers, equipment, cargo, and mail) in said territory, in the points specified in the annex. 3. The right of cabotage will be reserved to the airlines of each contracting party. 4. The rights to fifth freedom traffic of all of the sectors of the annex of the present convention that will be exercised, must have previous consultations between the aeronautical authorities.	(Article 1) a) The contracting parties concede to each other the rights specified in the attached annex for the international airlines established in the annex, receive or render services within their respective territories. b) Each contracting party will designate one or more international air transport business for the exploitation of the different routes that can be established, and will decide the date of opening for such lines. (Annex) The designated Costa Rican and Luxembourg airlines will have these rights in the territory of the other contracting party: the right to transit and the right to land for non - commercial purposes; the right to use the airports and facilities inherently complimentary to international traffic. They will have also, within the territory of the other contracting party the right to embark or disembark passengers, postal remissions, and merchandise sent with relation to international traffic under the conditions in the present accord.
Designations and Authorization	(Article 3) 1. Each contracting party has the right to designate, in writing, to the other contracting party one or more airlines, that can operate the air services in accordance with the routes specified in the Annex, and also the right to withdraw or modify such designation. 2. Upon the receipt of designation or modification, the aeronautical authority of the other contracting party will concede, without delay, and in accordance with their laws and regulations, the authorization necessary to operate the agreed air services. 3. The aeronautical authority of one of the contracting parties can demand	(Article 2) a) Each contracting party will grant the authorization necessary for the exploitation of the airline or airlines designated by the other contracting party, under the conditions of Article 7 mentioned later. b) Without exception, before authorization is given for the airlines defined in the annex, these businesses must be called to confirm the legality of their qualifications, that they conform with the laws and regulations that normally apply to the party of the aeronautical authorities that are entrusted with the ability to grant authority of exploitation.

[1] These treaties and memorandums are unofficial translations from Spanish. They should be used for comparative purposes only.

APPENDIX II—BOLIVIA AND LUXEMBOURG

	that the designated airline(s) of the other contracting party satisfactorily demonstrate that they have the capacity to comply with the conditions established in the normal and reasonable laws and regulations applied to the operation of international air services, in conformity with the arrangements of this accord. 4. At the time when the full application of the multiple designation of airlines begins, the aeronautical authorities of each contracting party will permit, at the request of the airlines of the other contracting party, the determination of the frequencies and the material of flight, which is needed to operate for the operation of the agreed air services in the routes specified in the annex. Within this, the arrangements that are established in the annex will prevail.	
Revocation of the Authorization	(Article 4) 1. Each contracting party has the right to revoke the operation authorization, or to suspend the rights specified in Article 2 of this Accord, to the designated airlines of the other contracting party, or to impose the conditions they consider necessary, in the case that the airline does not comply with the laws and regulations of the contracting party that conceded those rights, or in the case that the airline, in any manner, does not operate in conformity with the conditions prescribed under this accord. 2. Unless the immediate revocation, suspension, or imposition of the conditions mentioned in paragraph 1 of this Article are essential to avoid major infractions of the laws or regulations, such rights will be exercised only after consultation with the other contracting party.	(Article 7) Each contracting party reserves the right to refuse or revoke the authorization of exploitation of a designated airline of the other contracting party, in the case that they can not prove that an important part of the property and the effective control of such airline is in the hands of citizens of one or of the other contracting party or in the case that the business does not comply with the laws and regulations established in Article 6, or does not comply with the obligations contracted in the present accord.
Application of the Laws	(Article 5) The laws and regulations in force in the territory of each contracting party concerning the entrance, stay, and exit from the country by airlines dedicated to international air navigation, of passengers, crew, equipment, cargo, and mail, as well as those concerning immigration, customs, and sanitary measures, will apply also in said territory, to the operations of the designated airlines of the other contracting party.	(Article 6) a) The laws and regulations of each contracting party that regulate the entrance and exit from their territory with respect to airplanes that are dedicated to international navigation, or that regulate the exploitation and navigation of said airplanes will apply to the airplanes of the airline(s) of the other contracting party during the time when they are within the limits of the other contracting party's territory. b) The passengers, equipment, and crew will be under the obligation to abide by, personally or in the name of a third party, the laws and regulations of the territory of the contracting party , concerning the entrance, stay, and exit by the passengers, equipment, merchandise, and also to those regulations that apply to the entrance, formalities of exit, to immigration, passports, customs, and quarantine.
Safety	(Article 6) 1. The certificates of air-navigability, the certificates or titles of aptitude,	(Article 5) The certificates of navigation, certificates of competence, and the licenses

APPENDIX II—BOLIVIA AND LUXEMBOURG

	and the licenses issued or validated by one of the contracting parties and which are not expired, will be recognized as valid by the other contracting party for purposes of operating the routes designated in the Annex, during the period when it is in force, in conformity with the agreements established in the Accord. 2. Each contracting party reserves the right to not recognize as valid, for flights over their own territory, the certificates or titles of aptitude and the licenses issued to their own nationals by the other contracting party or by a third state. (Article 16) Restrictions or prohibitions of flights of the airplanes of the designated airline(s), over certain zones over the territory of the contracting parties will be made in conformity with Article 9 of the Convention.	granted or validated by one contracting party will be recognized by the other contracting party for the exploitation of the air routes defined in the annex. Each contracting party will reserve, not withstanding, the right to not recognize such as valid, for the circulation above their own territory, the certificates of confidence and the licenses granted for their own citizens, by the other State.
Air Safety	(Article 15) 1. The contracting parties reaffirm their agreement to act in conformity with the arrangements of the *AGREEMENT ABOUT THE INFRACTIONS AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRPLANES*, signed in Tokyo on the 14 of September of 1963, *THE CONVENTION FOR THE PREVENTION OF ILLEGAL POSSESSION OF AIRPLANES*, signed in the Hague on the 16 of December of 1970, and the *CONVENTION FOR THE PREVENTION OF ILLEGAL ACTS AGAINST THE SECURITY OF CIVIL AVIATION*, signed in Montreal on the 23 of September, 1971, and equally, will apply any other convention that concerns this material that is ratified by both contracting parties. In addition, they declare that their obligation to protect the security of civil aviation against illegal acts of interference, constitutes an integral part of their mutual relations in the goals of the present accord. 2. a) The contracting parties, in their mutual relations, must act in conformity with the arrangements over security of the airplane established by the IACO, in the means that are arranged that are applicable concerning security; They will require that the operators that have their principle office or permanent residence in their territories, to act in conformity with said arrangements over the security of aviation. b) Each contracting party can adapt, without prejudice, to those measures stipulated in the previous paragraph, all of the supplementary measures that are considered necessary to assure the inspection of the passengers, crew, their effective personnel, as wall as the cargo and provisions on board, during loading or their stay in the country. 3. When there is an incident or threat of illegal possession of an aircraft, or other illicit act against the security of the passengers, crew, airplanes,	

APPENDIX II—BOLIVIA AND LUXEMBOURG

	airports, or installations of navigation, the contracting parties will mutually assist each other to facilitate the communications and other appropriate measures needed to end, in a safe and rapid fashion, said incident or threat. 4. In the case that one of the contracting parties does not adjust to the arrangements concerning aviation security stipulated in the present article, the contracting party affected can request immediate consultations with the aeronautical authorities or the other contracting party. The inability to arrive at satisfactory agreement within 15 days, after the date of the request, will constitute a sufficient motive to withhold, limit, revoke, or impose conditions on the authorized operators or licensed technicians of the designated airline(s) of the other contracting party.		
Commercial Opportunities	(Article 13) 1. At any time, any designated airline has the right to convert and transfer the local earnings obtained by services provided, in conformity with the present accord, minus what has been paid in taxes in the territory of either of the contracting parties. 2. The conversion which will be permitted is the type of exchange that exists in the market at the moment of exchange, and will not be subject to any change with the exception of payment for bank services of such operation. 3. The transference of earnings will take place with conformity with the legislation enacted by each contracting party, and legislative arrangements and regulations will not be less favorable than those applied to other expatriate airlines that operate international air service to and from the territory of each of the contracting parties. (Article 14) 1. The airlines designated by one contracting party will have the right, on the basis of reciprocity, to maintain in the territory of the other contracting party, the commercial, operational, and technical representatives and personnel that are necessary for the fulfillment of the agreed air services. 2. The necessities of the previous paragraph can be filled by their own dependents of the airline(s), or by contract of services with national personnel, or by any other airline established in the territory of the other contracting party. 3. The representatives and personnel of each contracting party will be subject to the laws and regulations in force in the territory of the other		

APPENDIX II—BOLIVIA AND LUXEMBOURG

	contracting party, relating to earnings, residence, and employment, and in conformity with said laws and regulations, each contracting party, with a minimum of delay will grant visas and other documents that are necessary for the representatives and personnel referred to in paragraph one of this Article. The services of the ground assistance will be supplied in accord with the legislation of each contracting party.	
Rights for Customs and Taxes	(Article 9) 1. The airplanes used in the international air services of the designated airlines(s) of each of the contracting parties, as well as their ordinary equipment, fuel, lubricants, and other provisions (including food, beverages, and tobacco), on board such airplanes, will be exempt from all customs duties, inspection fees or other fees or taxes, upon the arrival in the territory of the other contracting party, only when such equipment and provisions stay on board the airplane until the time of their re-exportation. 2. Equally exempt will be, on the condition of reciprocity, from the same duties, taxes, and fees, with the exception of fees for services provided, lubricant oils, consumable technical materials, spare parts, tools, and special equipment for maintenance work, as well as provisions (including food, beverages, and tobacco), airline documents such as tickets, pamphlets, itineraries, and other printed materials needed by the company for their service, as well as published material that is considered to be necessary and is exclusively for the development of the same activities sent for or by the airline of the contracting party , to the territory of the other contracting party, as well as those that are put on board the airplanes of one of the contracting parties in the territory of the other contracting party and used in international services. 3. The normal equipment brought on board of the airplanes, as well as the other materials and provisions that stay on board of the airplanes of either of the contracting parties, can be unloaded in the territory of the other contracting party, only with the previous authorization of the customs authorities of the territory to where the goods were brought. In such cases, they must remain under the supervision of said authorities until they leave the country or they proceed with the legal arrangements of their subject. 4. The passengers in transit over the territory of either of the contracting parties will only be subject to simple control. The equipment and cargo in direct transit will be exempt from customs fees or other similar fees.	(Article 4) b) Fuel, lubricants, spare parts, and equipment introduced to, or brought in to the territory of one of the contracting parties on board an airplane of an indicated airline of the other contracting party, or by the account of such airline, and designated only for the use of the apparatuses of this airline, will receive national treatment or most favored nation treatment, with respect to customs taxes, inspection fees, or other national fees or taxes. c) Each airplane used by the airline(s) designated by a contracting party used in the air routes established in the present accord and also the fuel, lubricants, spare parts, normal equipment and comestibles, that are left on board the airplane on its arrival or departure of the other contracting party will be exempt from customs taxes, inspection fees, and other similar fees and taxes, even if the materials mentioned will be employed or consumed by or in these airplanes during flight above the mentioned territory.
Rights for Taxation on the User. (User	(Article 8) Each contracting party can impose or permit that it is imposed, just and	(Article 4a) a) The contracting parties agree that the fees imposed for the use of the

APPENDIX II—BOLIVIA AND LUXEMBOURG

Fees)	reasonable fees for the use of the airports and other installations. Without exception, each contracting party agrees that said fees will not be higher than those paid for the use of the same airports and installations by the national airlines dedicated to similar international air services.	airports and other facilities for the designated airline(s) of each of them, will not exceed the fees that are paid for the use of said facilities by their national airlines used for international air services on similar routes.
Legal Competition	(Article 10) 1. There will be a just, equal, and egalitarian opportunity for the designated airlines of both contracting parties that operate the agreed services on the specified routes between their respective territories. 2. The agreed services that are provided to the designated airlines by the contracting parties will be designated in strict relation to the necessity for transport of passengers and cargo, including mail, that come from or are destined to the territory of the contracting party that has designated the airlines. 3. The contracting parties agree that the things relative to the specified routes and their terms of operation of the same, will be defined by the aeronautical authorities of both contracting parties, through corresponding channels.	
Prices		
Consultations	(Article 7) The aeronautical authority of one contracting party will supply to the other aeronautical authority of the other contracting party, when it is requested, all statistical data that is considered necessary to evaluate the operation of the agreed air services. Such information can be requested directly by the aeronautical authorities of each contracting party, to the designated airlines of the other party.	(Article 10) b) In the feeling of strict collaboration, the competent aeronautical authorities of the contracting parties, will consult periodically with the purpose to assure the application of the principles established by this accord and its annex, and its satisfactory execution.
Settlement of Controversies	(Article 12) 1. The aeronautical authorities of the contracting parties, at such time as they find convenient, can put into effect an exchange of opinions with the purpose to achieve strict cooperation and understanding in all that related to the interpretation and / or the application of the present accord and its annex. (Article 19) Any disagreement between contracting parties, related to the interpretation or application of the present accord, will be subject initially to direct negotiations between designated airlines or between respective governments, by means of correspondence.	(Article 8) a) The contracting parties will agree to submit to arbitration any discord in respect to interpretation or application of the present accord or its annex that couldn't be resolved in direct negotiations. b) Such discord shall be brought to the council of the IACO founded by the International Civil Aviation Convention and signed in Chicago on the 7th of December 1944. c) Without exception, the contracting parties can, by common accord, solve the discord before a Tribunal of Arbitration, or before another person or organization indicated by them. d) The contracting parties will compromise to conform with the judgment that is given.
Termination	(Article 20)	(Article 10)

APPENDIX II—BOLIVIA AND LUXEMBOURG

	At any time the contracting parties can denounce the present convention by means of written notice to the other contracting party. The termination will take effect 6 months following the receipt of notice, unless it is withdrawn before the expiration of the said time period.	e) At any time, either of the contracting parties can notify the other of their desire to terminate the present accord. The notification will be communicated at the same time to the IACO. Once such notification has been made, the present accord will end 12 months after the date of receipt of the respective notice by the side of the other contracting party, in the case that such notification has not been withdrawn by common accord before the date of expiration of the termination. If the contracting party that received notification is directed not to reveal the date of receipt of the notice, the date of notice will be set at 14 days after the receipt for the side of the IACO.
Multilateral Accord	(Article 18) 1. When a multilateral convention enters into force, relative to this accord, the latter will be modified to conform to the terms of such multilateral convention, of which both states are party.	(Article 10) c) The present accord and its annex must be adjusted to incorporate all future multilateral accords that are signed by both contracting parties.
Amendments	(Article 12) 2. At any time the contracting parties can amend and or modify the present accord and its annex, or add clauses to the same, through direct consultations between aeronautical authorities. Such consultations will take place within a period of 60 days, from the date of the request given by the interested contracting party to the other contracting party, by means of correspondence. 3. The request for consultation, which is referred to in the previous paragraph, will not leave the execution of the administrative measures dictated for one or both of the contracting parties without power as a consequence of the interpretation and or application of the present accord and its annex. 4. All of the modifications of the present accord, will enter into force when they have been confirmed in accordance with the constitutional arrangements of each contracting party.	(Article 10) d) If either of the contracting parties wants to modify the terms of the present accord, or its annex, they can request to have a meeting of the competent authorities of the contracting parties, and such consultation must begin within 60 days after the request. All modifications of the annex that are agreed to between the aforementioned authorities, will enter into force after they are confirmed by an exchange of diplomatic notes.
Registration with OACI	(Article 17) The accord and all of its modifications will be registered with the ICAO.	(Article 9) This treaty and all treaties related to it will be registered with the council of the IACO, established by the ICA Agreement, signed in Chicago on the 7th of December, 1944.
Entrance into Force	(Article 21) The present accord will enter into force at the time when both contracting parties communicate by means of writing that they have complied with the internal requisites of each contracting party.	(Article 10) a) The present accord will be ratified and the instruments of ratification will be exchanged in San José, Costa Rica in as short a period of time as possible.
Route Rights		(Additional Protocol) Route Rights:

APPENDIX II—BOLIVIA AND LUXEMBOURG

		For Luxembourg: Lux → eventually intermediate points → Costa Rica → eventually points further & Return. For CR: CR →eventually intermediate points → Lux. → eventually points further & Return.
Tariffs	(Article 11) 1. Each contracting party will permit each designated airline to fix tariffs for air transport, based on commercial market considerations. The intervention of the contracting parties will be limited to: a) Prevent discriminatory or predatory practices or tariffs. b) Protect the consumers from excessively high or restrictive tariffs that originate from the abuse of a dominant position, and c) Protect the airlines from tariffs artificially low, designed as a direct or indirect government support or subsidy. 2. Neither of the contracting parties can act unilaterally with the purpose to impede the introduction of any tariff that is intended to be collected or that are collected from a designated air line of either of he contracting parties, with the exception of the arrangements in paragraphs 3 and 4 of this article. 3. The aeronautical authorities of each contracting party can require previous notification or registration of the tariffs to their aeronautical authorities, to or from their territory, that are proposed to be collected from the airline of the other contracting party. They can require such notification or registration be made before the date proposed for its entrance into force. 4. If either of the aeronautical authorities of the contracting parties consider that a tariff proposed or in effect, is incompatible with the considerations stipulated in paragraph one of the present article, they must notify the aeronautical authorities of the other contracting party, and state the reasons of their disagreement, as soon as possible, The aeronautical authorities of both contracting parties will then make their greatest effort to resolve the question between themselves. Each contracting party can request consultations, which will take place in a period of time no greater than 30 days after the reception of the request, and the contracting parties will cooperate with the purpose to put in order the information necessary to bring a reasonable resolution to the question. If the contracting parties achieve agreement over the tariff in question, each contracting party will use their greatest effort to bring this tariff into effect. It they end the consultations without mutual accord, such tariff can not enter into or continue in force.	(Article 3) The tariffs will be fixed at reasonable rates, especially taking into account the running of the economy, a normal profit, and the characteristics of each airline, to employ them rapidly and comfortably.

APPENDIX II—MEXICO AND THE NETHERLANDS

	MEXICO, Signed 8 Sept. 1966; ratified 11 Sept. 1969, Law # 4413	NETHERLANDS, 14 August, 1992 (not ratified by CR)
Definitions	(Article 1)	(Article 1) Definitions
Rights Granted	1. Each of the Contracting parties grants to the other party the rights specified in the present agreement with the end to establish air services in the routes specified in the annex. 2. Except for what is stipulated in the present agreement, the designated airlines for each party contract to gain from international services, the following rights: a) fly over the territory of the other party without landing b) make scales for non commercial purposes in the aforementioned territories, c) embark and disembark international traffic in the said territories, in the routes specified in the Route Chart in the annex, [in the form of] passengers, cargo, and mail. 3. The making of such rights will not be exercised immediately nor impede the airlines of the contracting party from rights they may have conceded to begin prior to the air services in the routes specified in the Route Chart. 4. These rights by no means imply the ability to combine specified routes. (Art. 2)	(Article 2) 1. Each contracting party will concede to the other contracting party the rights specified in the present convention with the purpose to establish regular international air services in the routes specified in the annex attached to the present convention. 2. Saving the stipulation in the present convention, the designated airlines of each contracting party will have during the operation of the agreed specified routes, the following routes: a) To fly above the territory of the other contracting party without landing. b) To make stopovers for non-commercial purposes in the territory of the other contracting party, c) To make stops in the points of the other contracting party that are specified it the annex with the proposition to embark and disembark passengers, cargo, equipment, mail, in international air services, proceeding from or destined to the territory of the other contracting party, or proceeding from or destined to another State, in accord with what is established in the annex. 3. Nothing in paragraph 2 of this article can be considered to grant the right to an airline of a contracting party to participate in air transport between points in the territory of the other contracting party.
Designations and Authorization	1. To start the entrance into force of this present convention, the aeronautical authorities of the contracting parties must communicate as briefly as possible the information concerning the authorizations given to operate the routes mentioned in the Route Chart. 2. The air service of a specified route can be inaugurated by an airline which already is in existence or which may exist in the future, at the option of the contracting party that has conceded the rights, after one of the Parties has designated to one of the airlines to give service to this route, and has granted to the other contracting party the corresponding permission, each other contracting party is obliged to give it, demanding to the designated airline that it fulfill the requirements of the competent air authorities of said party and that it conforms with the general laws and regulations applied by both authorities. (Art. 3)	(Article 3) 1. Each contracting party will have the right to designate in writing through diplomatic channels to the other contracting party, an airline to operate the agreed services in the routes specified in the annex, and the right to withdraw or change such designation. 2. Upon receipt of said designation, the other contracting party must, in agreement with the arrangements in paragraph 3 of the present article, concede without delay, to the designated airline of the other present convention the corresponding authorization of operation. 3. The aeronautical authorities of one of the contracting parties can require of the designated airline of the other contracting party to demonstrate that it is in the condition to comply with the obligations prescribed in the normal laws and regulations applied by said authorities for the operation of the international air services, in conformity with the arrangements of the Chicago Convention. 4. When an airline has been designated and authorized in this fashion, it can begin, at any time, to operate the agreed services, provided that there is in force for these services, a tariff established in conformity with the arrangements of the present convention.

APPENDIX II—MEXICO AND THE NETHERLANDS

		5. Each contracting party has the right to refuse granting of the authorization to operate that has been referred to in paragraph 2 of the present article, or to grant this authorization under conditions that it considers necessary to exercise by part of the designated airline of the rights specified in Article 2 of this agreement, if it is not convinced that the substantial property and the effective control of the designated airline is in the hands of the contracting party which designated it, or its nationals, or both.
Revocation of the Authorization	1. Each contracting party reserves the right to not concede, or to revoke the designated airline of the other party, the permission to present an air service, in the case that they are not satisfactorily convinced that an important portion of the property and effective control of the said airline is in the hands of nationals of the other contracting party, or in the case that the said airline does not comply with the laws and regulations mentioned in this present convention, or in the case that the airline or the government it is designated under, fails to fulfill the conditions under which the rights were granted, in conformity with this agreement or in case that the designated airline does not comply with the conditions contained in the known permission. 2. When one of the parties exercises any of the rights that are contained in the above paragraph, either of them can take refuge in the transactions of consultations and arbitration established in articles 12 and 13 of this agreement. (Art. 4)	(Article 4) 1. Each contracting party reserves the right to revoke the authorization to operate conceded to a designated airlines of the other contracting party, or to suspend the exercise of said airline of the rights specified in Article 2 of the present convention, or to impose the conditions that it feels are necessary to exercise the said rights: a) when it is not convinced that the substantial property and effective control of the airline are in the hands of the contracting party that designated the airline, or its nationals, or both, b) When this airline does not comply with the laws and regulations of the contracting party that granted those privileges, c) In the case that such airline does not qualify before the aeronautical authorities of this contracting party to conform to the laws and regulations that are normally applied in reasonable form by these authorities in conformity with the Chicago Convention. d) When the airline stops operating the agreed services in agreement with the conditions written in the present convention. 2. Unless the immediate revocation, suspension, or imposition of the foreseen conditions in paragraph one of the present article are essential to prevent new infractions of the laws and regulations, such right will be exercised only after a consultation with the other contracting party.
Application of the Laws	1. The laws and regulations of one contracting party relative to the admission into their territory, or the exit from their territory, of airplanes used in international air transport, or related to the operation or navigation of such airplanes which they are in their territory, will be applied to the airplanes of the designated airlines of the other contracting party and will be complied with by said airplanes in the entrance or exit of the territory of the first contracting party and while they are within it. 2. The laws and regulations of one contracting party relative to the admission, stay, and exit of the passengers, crew, cargo, and mail, such as regulated by entrance, exit, dispatch, migration, customs, and health, will be applied to the passengers, crew, cargo, and mail	(Article 5) 1. The laws, regulations, and procedures of each contracting party that are in force in their territory concerning the entrance and exit of airplanes dedicated to providing international air services, or related to the operation and navigation of said airplanes during their stay within the limits of the territory, will apply to the airplanes of the designated airline of the other contracting party. 2. The laws, regulations, and procedures that are in force in the territory each contracting party concerning the entrance, stay, and exit of passengers, crew, equipment, cargo, and mail, as well as those relating to the formalities of entrance and exit from the country, immigration, customs, and sanitary measures, will apply also in the said territory to the

APPENDIX II—MEXICO AND THE NETHERLANDS

	transported in the airplanes of the designated airlines of the other party in the entrance or exit from the first party or while they are staying in the territory. (Art. 5)	operations of the designated airline of the other contracting party. 3. The passengers, equipment, and cargo in direct transit over the territory of either of the contracting parties and that do not stop in the area of the airport reserved for that effect, except in the measures that refer to security against violence and air piracy, will not be subject to more than simple control. The equipment and cargo in direct transit will be exempt from customs duties and other similar taxes. 4. Neither of the contracting parties must give preference to any other airline other than the designated airline of the other contracting party in the application of regulations of customs, immigration, quarantine, and other similar regulations; or the use of airports, air routes, and services of air traffic and connected installations under their control.
Safety	The certificates of air navigability , the certificates of capacity and licenses, issued or recognized by one contracting party, when they are in force, will be recognized as valid by the other party, for the purpose of operation in the routes and services stipulated in this agreement, under the condition that the prerequisites that exist to issue or recognize such certificates or licenses, will be equal or higher than the minimal norms established in conformity with the Chicago convention of the IACO. Each contracting party will reserve the right to refuse to accept, for the purpose of flight over their territory, certificates of capacity and licenses conceded to their own nationals by the other state.	(Article 6) 1. The certificates of air navigability, the certificates or titles of aptitude and the licenses issued or validated by one of the contracting parties and in force, will be recognized as valid by the other contracting party for the operation of the routes defined in the annex, as long as the certificates or licenses were issued in accordance with the norms established by the Chicago Convention. 2. Each contracting party reserves, not withstanding, the right not to recognize as valid, for flights above their territory, the titles or certificates of aptitude and the licenses issued to their own nationals by the other contracting party.
Air Safety		(Article 7) 1. The contracting parties agree to help one another when this is necessary to prevent the illegal possession of aircraft, or other illegal acts against the security of aircraft, airports and the air navigation installations, or any other threat to the security of the airplane. 2. Each of the contracting parties agrees to observe the non-discriminatory security arrangements generally applicable and required by the other contracting party, and to take adequate measures to inspect the passengers and their hand baggage. Each one of the contracting parties must also lend benevolent consideration to any request of the other party concerning special security measures for an airplane or passengers owing to a specific threat. 3. The contracting parties must act consistently with the arrangements for air security established by the IACO. If one of the contracting parties deviates from such arrangements, the other contracting party can request consultations with this contracting party. Unless it is other wise arranged, such consultations will begin within a period of 60 days form

APPENDIX II—MEXICO AND THE NETHERLANDS

		the date of receipt of such request. 4. The contracting parties will act in conformity with the arrangements of the *AGREEMENT ABOUT THE INFRACTIONS AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRPLANES*, signed in Tokyo on the 14 of September of 1963, *THE CONVENTION FOR THE PREVENTION OF ILLEGAL POSSESSION OF AIRPLANES*, signed in the Hague on the 16 of December of 1970, and the *CONVENTION FOR THE PREVENTION OF ILLEGAL ACTS AGAINST THE SECURITY OF CIVIL AVIATION*, signed in Montreal on the 23 of September, 1971. 5. When there is a case of illegal possession of an aircraft, or other illegal acts against the security of airplanes, airports, and the installations for air navigation, or a threat of these acts, the contracting parties must help one another facilitate the communications that are intended to end in a rapid and safe fashion, such incident or threat.
Commercial Opportunities		(Article 13) 1. The designated airline of each contracting party has the right to convert and transfer, the quantity of income in excess of the taxes paid in the territory of the other contracting party, earned in relation to the activity of air transport. The moneys which may be transferred include all earnings, at any time, made by sales of services of air transport supplementary services, and commercial interests accrued on such earnings while they are deposited before transference. 2. Such transference will be carried out in conformity with the internal legislation in force in each country. (Article 14) 1. The designated airlines of both contracting parties will be allowed: a. to establish in the territory of the other contracting party offices for the promotion of air transport and sale of air tickets, as well as the installations necessary to provide the air transport. b. sell services of air transport in the territory of the other contracting party, directly or through an agent. 2. The airline designated by one of the contracting parties must permitted bring and maintain in the territory of the other contracting party the general, commercial, operational, and technical personnel that they require in relation to their air transport. 3. These requirements of personnel, at the option of the designated airline can be fulfilled by their own personnel, or through the services of any other organization, company or airline that is operating in the territory of the other contracting party and which is authorized to provide such

APPENDIX II—MEXICO AND THE NETHERLANDS

		4. The authorized activities and permissions must be completed in conformity with the laws and regulations of the other contracting party. 5. All of the personnel will be subject to the laws, regulations, and administrative procedures applicable in the territory of the other contracting party.
Rights for Customs and Taxes	(Article 7) 2. The lubricant oils, technical consumable materials, spare parts, tools, and special equipment for maintenance work, as well as provisions, introduced into the territory of one of the contracting parties by the other contracting party, for the use exclusively of the airlines of said party, will be exempt, on the basis of reciprocity, from customs taxes, inspection fees, and other taxes or government taxes, state or local. 3. Fuel, lubricant oils, other consumable technical materials, spare parts, and other normal equipment and provisions that are retained on board the airplanes of the designated airlines will be exonerated, on the basis of reciprocity, upon the arrival or departure of the territory of the other contracting party, of customs duties, inspection fees, and other taxes or government taxes, state and municipal, even when said articles are used or consumed by said airlines in flights within the referred territory. 4. The fuel, lubricants, and other technical consumable materials, spare parts, normal equipment and provisions that are put on board the airplanes of one of the contracting parties in the territory of the other contracting party and used in international services will be exempt, on the basis of reciprocity, from customs duties, decisions, inspections fees, and other taxes or fees, federal, state, and municipal.	(Article 10) 1. The airplanes used in international air services by the designated airline of each contracting party, and its normal equipment, fuel, parts, lubricants, provisions (including food, tobacco, and beverages), materials for promotion on board such airplanes, will be exempt form all customs duties, inspections fees, and other charges or national fees, when they enter into the territory of the other contracting party, as long as this equipment and provisions stays on board the airplane until its time of re-exportation, as well as when said articles are used or consumed by said aircraft in flights above said territory. 2. Equally exempt from the same fees and payments will be: a. The lubricant oils, technical consumable materials, spare parts, tools and special equipment for maintenance work, as well as provisions (including food, tobacco and beverages), and which are for the exclusive use of the development of the activities of said airline, brought by the designated airline of one contracting party to the territory of the other contracting party. b. The fuel, lubricant oils, other technical consumable materials, spare parts, necessary equipment, and provisions that are brought on board the airplane of one of the contracting parties in the territory of the other contracting party and used in international services. 3. The equipment normally brought on board airplanes, as well as other materials and provisions that stay on board the airplanes of either of the contracting parties, can be unloaded in the territory of the other contracting party only with the previous authorization of the customs authorities of the local territory. In such cases, the goods will remain under the supervision of said authorities until the time when they are exported or are used in accord with customs regulations.
Rights for Taxation on the User. (User Fees)		(Article 9) 1. Each one of the contracting parties can impose or permit to be imposed upon the airlines of the other contracting party, just and reasonable fees for the use of the airports and other services. Without exception, each one of the contracting parties agrees that such fees will not be higher than those applied for use of said airports and services charged to any other airline dedicated to similar international air services.

APPENDIX II—MEXICO AND THE NETHERLANDS

Legal Competition	(Article 8) The contracting parties agree that the designated airlines will enjoy just and equal treatment so that they can exploit with equal possibilities the air services agreed between the territories of the contracting parties. (Article 9) In the fulfillment of the exploitation of the air services instructed in this agreement for the designated airlines of each of the contracting parties, each party will take into consideration the interests of the airlines of the other contracting party, with the purpose to not individually affect the services which in the end are provided. (Article 10) 1. to remain understanding that the services provided to a designated airline conform to the present convention, the primary objective will be the proportioning air transport with adequate capacity to the traffic necessary between countries. 2. The services provided to the airlines that function in accord with this agreement must be limited to the strict relation of the public necessity of such services. 3. The right to embark or disembark, in the provision of these services, international traffic destined for a third country or originating from a third country, in any point or points of the specified routes in the Schedule of Routes [appended], they will work to conform to the general principles of rational and ethical evolution, that both parties contract to accept and that will be subject to the general principle of capacity of air transport that must be limited to the proportion: a) with the necessity of traffic between the country of origin and the countries of final destination, b) with the necessities of the service of directors of the airlines, c) with the necessity of the traffic of the region which the airlines passes through, after it takes into consideration local and regional services. 4. Both contracting parties agree to recognize that the traffic of the fifth freedom is complementary to the requirements of the traffic of the routes between the territories of the contracting parties and as the same time is a subsidiary to the requirements of traffic to the third and fourth freedoms between the territory of the other party and a third country on the route. 5. In relation to this, both contracting parties recognize that the development of local and regional services is a legitimate right of their respective countries. They agree therefore to consult periodically over the manner in which the norms of this article will	(Article 8) 1. The designated airlines of each contracting party must present to the authorities of the other contracting party for their approval within 30 days before the time of such intended services, the timetable of their intended services, specifying the frequency, type of airplane, the configuration, and number of seats which will be available to the public. 2. Requests for permission to operate additional flights can be presented by the designated airline for its direct approval to the aeronautical authorities of the other contracting party. (Article 11) 1. Both contracting parties will agree that the designated airlines of each will have equal and just treatment in the operation of the agreed services in the routes specified between their respective territories on the basis of equal opportunities. 2. Each party will take the pertinent actions within their jurisdiction, to eliminate all forms of discrimination or practices of illegal competition that adversely affect the competitive position of the designated airline of the other party. 3. It will remain understood that the services that are provided by the designated airlines will conform to the present Convention, and will have, among others, the objective to proportion air transport based on the necessities of traffic. 4. The contracting parties agree that in relation to the specified routes, and the termination of operation of the same, will be defined by the aeronautical authorities of both contracting parties by mutual accord.

APPENDIX II—MEXICO AND THE NETHERLANDS

	6. All "Rupture of Cargo" [the change of a specified route, or substitution of an airplane with a different capacity] for justifiable reasons of economic exploitation will be admitted in any stopover of designated routes. Not withstanding, no "rupture of cargo" will be done in the territory of the other contracting party when this would modify the characteristics of the exploitation of a service of long-standing or which is incompatible with the principles established in this agreement. 7. Before any increase in the offered capacity of one of the specified routes, or in the frequency of service of the same, advice will be given of not less than 15 days before, by the aviation authorities of the interested contracting party to the airline authorities of the other contracting party. In the case that the latter considers the said increase not justified in sight of the volume of traffic on the route, or that it results in harm to the interests of the airline that has been designated, they can request, within the same period of 15 days, a consultation with the other party. Said consultation must begin within a period of 90 days following the request, and the designated airlines have an obligation to present such information as may be asked for to resolve the necessity or justification of the proposed increase. In the case that they do not reach agreement within 90 days following the day of the request for the consultation, the question will be submitted under the terms of Article 13. During this process, the increase will not enter into force.		
Prices			
Consultations	(Article 12 Section 1) Either of the contracting parties can at any time, request a consultation between the competent authorities of the two contracting parties with the proposition to discuss the interpretation, application, or modification of this agreement. Said consultations will begin within a period of 60 days following the date of receipt of the petition made to the Secretary of Exterior Relations of Mexico, or to the Ministry of Exterior Relations and Culture of the Republic of Costa Rica, as the case may be.		(Article 15) 1. The aeronautical authorities of the contracting parties will meet with the frequency which they consider necessary, in the spirit of strict collaboration, with the purpose to assure the satisfactory application of the agreements of the present accord. 2. Either of the contracting parties can, at any time, request a consultation, if it is convenient for the aeronautical authorities of both contracting parties, with the proposition to analyze the interpretation, application, or modification, of this agreement. Said consultations will begin within a period of time of 60 days, starting on the date of receipt of request by the Minister of Business of the Kingdom of the Netherlands, or by the Minister of Exterior Relations of the Republic of Costa Rica, as the case may be. It they arrive at a modification to the convention, said accord

APPENDIX II—MEXICO AND THE NETHERLANDS

		will be formalized by an exchange of diplomatic notes. 3. Any amendment of the present convention will enter into force on the date when both contracting parties agree, at the time when they have obtained the approval needed respectively, in accord with their constitutional procedures, by an exchange of diplomatic notes. 4. Any reform of the annex of the present convention must be agreed to by writing between the aeronautical authorities and will enter into force on the date determined by the aeronautical authorities.
Settlement of Controversies	(Article 13) 1. Except in the cases where this convention has arranged other means, any discrepancy between contracting parties relative to the interpretation or application of this agreement that can not be resolved by the means of consultations will be submitted to a tribunal of arbitration composed of three members, two of which will be named by each one of the contracting parties, and the third by the mutual agreement of the first two members of the tribunal, under the condition that the third member will not be a national of either of the contracting parties. 2. Each one of the contracting parties will designate an arbitrator within the period of 60 days after the date on which either of the contracting parties have delivered to the other contracting party a *diplomatic note in which they request a settlement* of a dispute through the means of arbitration ; the third arbitrator will be named within a term of 30 days, begun after the end of the period of 60 days referred to above. 3. If in the end they find that they can not reach an accord with respect to the third arbitrator, the job will be filled by a person appointed by the President of the IACO in agreement with his practice. 4. The contracting parties agree to obey any resolution that is dictated in conformity with this article. The Tribunal of Arbitration will decide about the distribution of fees that result from this procedure.	(Article 16) Any controversy that originates from this convention, will be subject, before all, to direct consultations between aeronautical authorities in accord with the terms established in paragraph 2 of Article 15 of this convention, and if there is no agreement, it will be determined through diplomatic channels.
Termination	(Article 16) If either of the contracting parties wants, at any time, to give notice to the other contracting party of their intention to end the present convention, they are obliged to simultaneously notify the IACO. The agreement will end six months after the date of receipt of the notice of termination. In the case that the other party claims not to have received notice, it will be assumed that the notice was received by them 14 days after the date of receipt of notice by the IACO. (Article 18)	(Article 20) Either of the contracting parties can at any time, notify the other contracting party of their intention to renounce the present convention. This notification will be communicated simultaneously to the ICAO. If such notification if made, the agreement will terminate 9 months after the date of receipt of notification by the other contracting party, unless the notice is not withdrawn by mutual accord before the expiration of the said time period. In the other contracting party does not acknowledge receipt of said notification, notice will be considered received 14 days after the ICAO has received notice.

APPENDIX II—MEXICO AND THE NETHERLANDS

	Unless one of the parties states their intention to end this agreement before, in the terms of Article 16, the present convention will have a duration of 3 years from the date of signing, and can be renewed for successive 3 year periods by the means of an exchange of diplomatic notes.	
Multilateral Accord	(Article 15) If a multilateral convention on International Air Transport comes into effect, this present agreement will be modified, following the procedure established in Article 12, to adjust the agreement to the arrangements in said convention.	(Article 17) 1. If a multilateral agreement is accepted by both contracting parties concerning any material covered in this multilateral agreement enters into force and has complied with the constitutional requirements, the relevant agreements of this multilateral will over rule the relevant agreements of this accord. In this case the present agreement will be modified with the purpose to adapt the agreements of the said multilateral agreement. 2. Before the entrance into force of a multilateral agreement, if there exists any conflict between the agreements of the present accord and those of the multilateral, the arrangements of the present agreement will prevail.
Amendments	(Article 12 Section 2) The amendments which are agreed to will be signed by both parties in an additional protocol, and will enter into force at the time when both contracting parties have completed their respective constitutional arrangements and have confirmed them through an exchange of diplomatic notes.	
Registration with OACI	(Article 14) This agreement and all of its amendments will be registered with the IACO.	(Article 18) This convention and all of its arrangements will be registered in the IACO.
Entrance into Force	(Article 17) 1) The present agreement is subject to ratification. The exchange of instruments of ratification will be as brief as possible, in San José, Costa Rica. 2) The present agreement will enter into force 30 days after the exchange of instruments of ratification.	(Article 19) When reference is made to the Kingdom of the Netherlands, in this agreement this will refer to the Kingdom in Europe only. (Article 21) The present convention will enter into force on the date on which there is an exchange of diplomatic notes by the contracting parties that notifies the completion of their constitutional formalities.
Route Rights	The airlines designated by the Government of Mexico have the right to operate air services in both directions in the routes specified, and to make regular schedules in the intermediate points as qualified below: For Mexico: Mexico City → points intermediate → San José → points further. Mérida, Yuc. → points intermediate → San José → points further. Notes:	(Annex) A. Schedule of Routes: 1. As the proposition manifest in the present accord is to aid, on the basis of equality and reciprocity, the regular air services between the Republic of Costa Rica and the Kingdom the Netherlands, both countries agree to the full reciprocal rights of the designated airlines for the transport of passengers, equipment, cargo, and mail, between any points between their respective countries.

APPENDIX II—MEXICO AND THE NETHERLANDS

	1. The airlines designated by the Government of Mexico to operate route 1, only have the right to fifth freedom flights between points in Central America and San José and vice versa, or between points in South America and vice versa. 2. The airlines designated by the Government of Mexico to operate route 2, do not have the right of fifth freedom to make points in the territory of Costa Rica of between points in Costa Rican territory. 3. The airlines designated by the Government of Mexico can omit any or all of the flights to points intermediate and points further in the specified routes. 4. The airlines designated by the Government of Mexico to operate routes 1 and 2 of this section do not have rights to stop, stay, or exit from points not specified in this section. For Costa Rica: Mexico City → points intermediate → San José → points further. San José → points intermediate → Mérida, Yuc. → points further. Notes: 1. The airlines designated by the Government of the Republic of Costa Rica to operate route 1, only have the right of fifth freedom between San Salvador and Mexico, and vice versa. 2. The airlines designated by the Government of the Republic of Costa Rica to operate route 2, do not have fifth freedom rights to make points of Mexican territory or between points of Mexican territory. 3. The airlines designated by the Government of the Republic of Costa Rica can omit any or all of the flights to points intermediate and points further in the specified routes. 4. The airlines designated by the Government of the Republic of Costa Rica to operate routes 1 and 2 of this section do not have rights to stop, stay, or exit from points not specified in this section.	2. In the desire to complement the basic rights of third and fourth freedoms, the Republic of Costa Rica and the Kingdom the Netherlands, will reciprocally concede rights of transatlantic or intercontinental fifth freedom traffic, to the judgment of the aeronautical authorities of each contracting party. 3. a. Points of service in both directions for the designated airline of the Republic of Costa Rica: Points in Costa Rica → Caracas, Panama City, West Indies, Aruba, Santa Domingo, Cancun → points in the Netherlands, without traffic rights between points in the Netherlands and Caracas, Panama City, West Indies, Aruba, Santa Domingo, Cancun. b. Points of service in both directions for the designated airline of the Kingdom of the Netherlands: Points in the Netherlands → Caracas, Panama City, West Indies, Aruba, Santa Domingo, Bogota, and Guatemala → Points in Costa Rica, without traffic rights between points in Costa Rica and Caracas, Panama City, Aruba, Santa Domingo, Bogota, and Guatemala. c. NOTES: Any point or points in the routes specified can be omitted in one or all of the flights only and when such service originates in the respective territory of the designated airline. Points in the routes can be used in any order, only and when such service originates in the national territory of the respective airline. B. The airline of a contracting party will have the right to operate any type of airplane in any type of configuration on the services of the specified routes up to 7 flights per week.
Tariffs	(Article 7) 1. Each of the contracting parties can impose or permit the imposition on airplanes of the other party, reasonable and just tariffs for the use of public airports and other facilities under its authority. Without exception, each of the contracting parties agrees that the said tariffs will not be higher than those charged for the use of the airport and facilities to their national airlines dedicated to similar international services. (Article 11)	(Article 12) 1. The tariffs applicable to the designated airlines of the contracting parties for transport destined to the territory of the other contracting party or originating from them, will be established at reasonable levels, taking into account all elements of value, especially the cost of operation, a reasonable profit, and the tariffs applied to other airlines on any part of the specified route. 2. The tariffs mentioned in paragraph one of this article will be in accord, if possible, for the designated airlines of both contracting parties. 3. The tariffs thus accorded will be submitted for the approval of the

APPENDIX II—MEXICO AND THE NETHERLANDS

	1. When an airline of one of the contracting parties submits for consideration the tariffs on a flight from a point in the territory of one contracting party to another point in the territory of the other contracting party, taking into consideration the continuing service of the airplane, they will fix the tariff at reasonable levels, giving consideration to all of the pertinent factors, such as costs of operation, reasonable utilities and tariffs collected by other airlines as well as the characteristics of each service. These tariffs are subject to the approval of the airline authorities of each contracting party, those who will act in accordance with their obligations in conformity with this treaty, and within the limitations of their legal factors. 2. Any tariff that is proposed to be collected from any designated airline of either party for transport to points in the territory of the other party or to points in the territory of the same, will take into consideration the continuing service of the airplane, and must be presented for said airline, if this is required, to the authorities of the airlines of the other contracting party, leaving at least 45 days to the date of initiation, unless the contracting party has submitted a permit to submit it in a lesser amount of time. The aviation authorities of each of the contracting authorities must do all that is possible to assure that the tariffs that they charge and collect are adjusted to the tariffs presented to either of the contracting parties, and that no airline will be reimbursed a portion of any of these tariffs, in any manner, directly or indirectly, including through excessive commissions paid to agents or the use of imaginative fiscal exchange rates. 3. The two contracting parties agree that during any period when one of the two parties has agreed to the proceedings of the Conference of Traffic of the IACO, or other international associations of airlines all settlements of tariffs set by any of these agreements will be subject to the approval of the other contracting party. 4. If either contracting party, at the receipt of notification as referred to in paragraph 2 above, is not satisfied with the tariff that is proposed, they will inform the other party in less than 30 days before the date it is proposed to enter into force, and the contracting parties will work to arrive at a respectable agreement for a suitable tariff. 5. If a contracting party, upon examining a tariff in force that they collect for transport to their territory, or leaving from their territory, from an airline of the other party, is not satisfied with the said tariff, they will notify the other party and the contracting parties will work to arrive at a convenient arrangement with respect to the tariff. 6. In case, to arrive at an accord in conformity with the arrangements	aeronautical authorities of both contracting parties, at least 15 days before the provisional date for their entrance into force. In special cases this time period may be reduced by the consent of the said authorities. For the entrance into force of a tariff, the previous authorization of the aeronautical authorities of both contracting parties is necessary. 4. When agreement over a tariff can not be reached in accord with the arrangements in paragraph 2 of the present article, or when the aeronautical authorities in the time period mentioned in paragraph 3 of this article, show to the other aeronautical authorities their disagreement with respect to any tariff accorded in conformity with the arrangements in paragraph 2, the aeronautical authorities of both contracting parties will try to establish a tariff of mutual accord. 5. A tariff which is established to conform to the arrangements of the present article, will continue in force until the establishment of a new tariff. 6. For the establishment of the tariffs, they will use, if possible, the process established by the International Association of Air Transport for fixing tariffs. 7. The designated airlines of each of the contracting parties in no manner can modify the prices or regulations of application of the tariffs in force.

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

	in paragraphs 4 and 5, each contracting party will do what they can to put this tariff into effect. 7. a) If to conform with the circumstances laid out in paragraph 4, it is not possible to arrive at an agreement before the date in which it must enter into force, or b) If to conform with the circumstance laid out in paragraph 5, it is not possible to arrive at an agreement before the date of expiration of a period of 60 days following after the date of notification: In each case the contracting party that has submitted the objection to the tariff can adopt the necessary measures to prevent the initiation or continuation of the service in question with the tariff which they object to, when ever the contracting party that submitted the objection does to require that they collect a tariff higher than the minimal tariff obliged from their airlines for similar services between the same points. 8. They understand that the procedure of paragraphs 4, 5, and 7, is applicable only in the case of extreme conflict between the designated airlines of the contracting parties, and the corresponding aeronautical authorities. In normal cases of non-approval of tariffs, for lack of completion of prerequisites determined by part of the designated airline that requests the approval, or for modifications determined to regulate internal applications, there will always be direct settlement between the designated airline and the corresponding aviation authorities. When in any case the conformity with paragraphs 4 and 5 of this article, the aviation authorities of the two contracting parties can not reach an accord within a period of six months, with respect to a convenient tariff, and after consultation initiated by the complaint of a contracting party in relation to the proposed tariff or an existing tariff on the airline or airlines of the to the other contracting party, upon the request of the former, the measures of article 13 will be applied. To produce their report, the tribunal of arbitration will follow the principles established in this article. 9. Unless the contracting parties agree to a different method, each contracting party will compromise to enforce the most possible method to assure that any tariff specified in the national currency of one of the contracting parties will be fixed at a quantity that represents an effective exchange rate (including all of the rights of exchange or other fees.) so that any of the airlines of both contracting parties can convert and remit the income of their transport operations into the national currency of the other contracting party.		

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

	SPAIN, Signed --- Ratified 14 Nov. 1979	USA, Signed 16 August 1979; ratified 22 July 1983 Law # 6878
Definitions	(Article 1)	(Art. 1)
Rights Granted	(Article 2 as amended) 1. Each contracting party will concede to the other contracting party the rights specified in the present accord with the purpose to establish and operate the agreed services, in the routes specified in the annex of the present convention. The airlines designated by each contracting party will enjoy the exploitation of the services brought to a specified route, with the following rights: a) to fly above the territory of the other party without landing b) to make stopovers for non-commercial purposes, in the territory of the other contracting party, c) to make stopovers in the points of the territory of the other contracting party that have been specified in the Schedule of Routes in the Annex of the present convention, with the purpose of embarking and disembarking passengers, mail and cargo, in conjunction or separately, in the international air traffic coming from or heading to the territory of the other contracting party or coming from or heading to another state, in accord with what is established in the annex to the present convention. 2. No stipulation in this agreement can be interpreted to mean that the rights of cabotage within the territory of a contracting party is granted to any airline designated by a contracting party.	(Article 2) a) the right to fly over the territory of the other party without landing b) the right to make stops in the territory of the other party for non commercial reasons. c) other rights specified in the accord. Nothing in this section confers a right to any party when they are flying within points of the territory of the other party.
Designations and Authorization	(Article 3 as amended) 1. Each contracting party will have the right to designate two airlines of air transport to exploit the services agreed to in the specified routes, established by a written note to the other contracting party. 2. Upon receipt of said notification, the other contracting party must concede without delay, to the designated airlines the corresponding authorizations of exploitation, with agreement to the stipulations of paragraphs 3 and 4 of the present article and paragraph 1 of Article 4. 3. The aeronautical authorities of one of the contracting parties can require from the designated airlines of the other contracting party that they demonstrate that they have complied with the obligations written in the normal laws and regulations applied by said authorities, for the exploitation of the international air services, in conformity with the requirements of the Chicago Agreement. 4. Each contracting party has the right to refuse the authorization of exploitation mentioned in paragraph 2 of this article, or to impose the conditions seen as necessary for exercising , as part of an	(Article 3) Both Parties will have the right to designate as many airlines as they desire to make possible international air transport as established in this treaty, and to retire or change such destinations. These designations will be transmitted to the other party in writing through diplomatic channels, and will identify if there is an airline authorized to complete the type of air transport specified in Annex 1 and 2 (scheduled and chartered flights) or in both. (Art. 3) 2) To receive from the designated airline such designations and requests in the form and manner prescribed for authorization of operation and technical permission, the other party will grant the appropriate authority and permission with minimal procedural delays, always and when: a) a substantial part of the property and effective control of the airline is in the hands of the party that designated the airline, or of nationals of this party, or both; b) the designated airline is qualified to comply with the prescribed prerequisites in accordance with the laws and regulations normally applied in the operation of international air transport of the party which is considering the request or requests; and

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

	international air transport business, the rights specified in Article 2, when they can not prove that the property and effective control of the business is in the hands of the contracting party that has designated the airlines, or its nationals. 5. When an airline has been designated and authorized in this manner, it may begin, at any time, to exploit the agreed services, provided that the tariff established on said services is in conformity with the requirements of Article 4 of this convention in force.	c) The party which designates the airline is maintaining and administrating the norms stipulated in Article 6 (Security)
Revocation of the Authorization	(Article 4) 1. Each contracting party reserves the right to revoke the authorization of exploitation conceded to a designated airline of the other contracting party, to suspend the ability to exercise this exploitation of the rights specified in Article 2 of the present convention, or to impose the conditions that they find necessary to exercise those said rights: a) When they can not prove that the property and effective control of the airline is in the hands of the contracting party that designated the airline, or their nationals, b) When this airline does not comply with the laws and regulations of the contracting party that conceded those rights, or c) When the designates airlines abandon the exploitation of the agreed services agreed to in the conditions of the present convention. 2) Unless the revocation, suspension, or immediate imposition of the provisions in paragraph 1 of this article are essential to prevent new infractions of the laws and regulations, such right will be exercised only after consultation with the other party.	(Article 4) 1) Either of the Parties may revoke, suspend, or limit the authorization to operate, or technical permission of one of the designated airlines of the other party, when: a) a substantial portion and effective control of the airline is not in the hands of the other Party or in the hands of nationals of the other Party; b) The airline has not complied with the laws and regulations that are referred to in Article 5 of this agreement; or c) The other party is not maintaining or administrating the norms stipulated in Article 6 (Security) 2) If less than immediate action is needed to avoid a major non-compliance with the stipulations in 1) a, b, or c of this article, the rights established by this article will be exercised only after consultations with the other Party.
Application of the Laws	(Article 7) 1. The laws and regulations of each contracting party that regulate the entrance and exit of airplanes dedicated to international air transport or as related to the operations of such airplanes, during an airplane's stay within the limits of said territory, will apply to the airplanes of the designated airline of the other contracting party. 2. The laws and regulations that regulate, for each contracting party, the entrance, stay, or exit from their territory of passengers, crew, equipment, mail, and cargo, as well as the relative transactions of formalities of entrance and exit from the country, immigration, customs, and sanitary measures will apply also in said territory to the operations of the airlines designated by the other contracting party.	(Article 5) 1) During the entrance to, stay in, or exit from the territory of one of the Parties, the laws and regulations of this Party in relation to the operation and navigation of airplanes will be complied with by the airlines of the other party. 2) During the entrance to, the stay in, or the exit from the territory of one of the parties, the laws and regulations of this party relating to admission of, or exit from, the territory of passengers, crew, or cargo of an airplane (including regulations referring to the entrance, transmission, air security, immigration, passports, customs and quarantine or, in the case of mail, postal regulations) will be complied with by, or in the name of, such passengers, crew, or cargo of the airline of the other Party.

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

	3. For military reasons or public security, each contracting party can restrict or prohibit the flight of airplanes of the designated airlines, in areas designated to the other contracting party, over certain zones of their territory, when said restrictions or prohibitions apply equally to the airplanes of the airlines designated by the first contracting party, or to the airlines of air transport of third states that carry out regular international air services.	
Safety	(Article 8) Certificates of air-navigation, titles of aptitude and the licenses issued or co-validated by one of the contracting parties, which have not expired, can be approved as valid by the other party for the fulfillment of the routes defined in the annex of the present agreement, as long as the requisites under which the certificates or licenses were issued or co-validated are equal or greater than the minimal requirements established by the IACO. Each contracting party reserves, not withstanding, the right not to recognize the validity, for flight above their country, the titles of aptitude and the licenses issued to their own nationals by the other party.	(Article 6) Each party will recognize as valid, for the proposal of the operation of air transport foreseen in this accord, the certifications of air-worthiness, certificates of competence, and licenses issued or valid for the other party, and will always have validity, always and when the prerequisites for obtaining of such certificates or licenses are no less than equal to the minimum norms which were established in the Convention. Without exception, each of the parties can refuse the recognition of requests for flight above their territory, consider invalid such certificates of competence and licenses issued or validated for their own nationals for the other party. 2) Each party can solicit consultations referring to the norms of security maintained by the other party in any of the aeronautical installations, air crew, airplanes, and operations of designated airlines. If after such consultations, either of the parties finds that the other party is not maintaining and effectively administrating the norms and prerequisites of security in these areas, to the end that there are less than equal to the minimum norms that were established in accord with the Convention, the other party must receive notification of such determinations and of the measures that are considered necessary to comply with the minimum norms, the other party must then take pertinent corrective action. Each one of the parties reserves the right to withhold, revoke, or limit the authorization to operate or the technical permission of one or more of the airlines designated by the other party in the case that the other party does not take appropriate action within a reasonable time period.
Air Safety		(Article 7) Each Party, recognizing their responsibilities under the Convention, of developing Civil International Aviation in a safe and orderly fashion, reconfirms their profound concern over acts or threats against the security of airplanes that may endanger the security of the persons and goods, adversely affect the operation of air transport, and adversely affect the public's confidence in the security of Civil Aviation. To this end, each party: 1) Reaffirms their obligation to act consistenly within the terms of the Convention concerning infractions and certain other act committed aboard aircraft, signed in Tokyo on the 14 of December 1963, the

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

			Convention for the prevention of illegal acts against the security of Civil Aviation, signed in Montreal on the 23 of September, 1971. 2) Require that the operators of airplanes flying under their flag will act consistently with the pertinent security measures applicable to air security, established by the IACO; and 3) give the greatest amount of help possible the other party to ensure the avoidance of illegal control over airplanes , the sabotage of airplanes, airports and installations of air navigation and threats against the security of air navigation, consider with sympathy the requests made by the other party over special measures for the security of their airplanes and passengers to resolve a particular threat; and when incidents occur or threats to the air security or sabotage against the air planes, airports, or installations of air navigation, they will help the other party to facilitate communications, of which the end will be to terminate such incidents in a rapid and safe manner.
Commercial Opportunities	Each contracting party agrees to guarantee to the other party the freedom to transfer, at the official exchange rate, all earnings in excess of taxes, obtained in their territory as a result of transport of passengers, equipment, mail, or merchandise carried out by the designated airlines of the other contracting party. When these transferences between contracting parties are regulated by a special treaty, they will implement the accord with said agreements. (Article 13) The designated airlines of both contracting parties can keep in the territory of the other contracting party, the technical and commercial personnel necessary for the normal development of their commercial activities. Said personnel must be nationals of either of the contracting parties.		(Article 8) 1) the airlines of each of the parties can establish offices in the territory of the other party for the promotion and sale of air transportation. 2) The airlines designated by one of the parties can, in accordance with the laws and regulations of the other party pertinent to the entrance, residence, and internal employment, introduce and maintain in the territory of the other party a personnel of a general level, for sales, repairs, operations, and of other specialties that require oversight for air transport. 3) Each of the designated airlines can bring to fulfillment their own maintenance or ground crew in the territory of the other party ("self-handling") or if they prefer, they can select between different agents which compete for such services. These rights are only subject to the physical restrictions which arise from the airport security considerations. When such considerations do not permit such self maintenance or crew, such services must be available on an equal basis for all of the airlines, the charges for such services will be based on the costs of the services provided, and such services must be equal in class and quality to the maintenance and ground crew of their own, if it would be possible to have such. 4) Each one of the airlines of each of the parties can dedicate themselves to the sale of air transport in the territory of the other party directly and at the discretion of the same airline, through their own agents, except as can be arranged in an annex to the present accord or in conformity with the same. Each airline can sell this type of transport, and all people will be at liberty to buy such transport with the money of their own territory, or in moneys freely convertible.

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

		5) The airlines of both of the parties can convert and remit to their country, to their presentation, sums they earn in excess of the taxes paid locally. The conversions and remittance of such sums will be permitted promptly, without restrictions or related taxes, and the same to the type of exchange rate applicable to the transactions and current remittances.
Rights for Customs and Taxes	(Article 5) 1. The airplanes used in the international air services by the designated airlines of either of the contracting parties, and their equipment, fuel, lubricants, and provisions (including food, tobacco, and beverages), on board such airplanes will be exempt from all customs duties, inspection fees, or other fees or taxes, to enter into the territory of the other contracting party, when these equipment and provisions stay on board the airplane until the time of their re-exportation. 2. These will be equally exempt from the same fees and taxes, with the exception of fees for services provided: a) The provisions brought on board in the territory of one of the contracting parties, within the limits set by the authorities of said contracting party, for the consumption on board the airplane used for international air transport of the other contracting party. b) The spare parts introduced to the territory of one of the contracting parties for the maintenance or repair of their aircraft used in international air transport by the designated airlines of the other contracting party, c) The fuel and lubricants destined for the supply of the airplanes used by the designated airlines of the other party and used for the international air services including when these provisions are consumed during the flight above the territory of the contracting party from which such materials were brought on board. It can be required that these articles mentioned in paragraphs a, b, and c, remain under vigilance or control. 3. The essential equipment of the airplanes, as well as the materials and provisions mentioned above, cannot be removed from the airplane in to the territory of the other contracting party without the approval of the aeronautical authorities of the said territory. In such case, they must e maintained under the vigilance of said authorities until they are re-exported or have received another destination that must be authorized. 4. The passengers in transit across the territory of one of the contracting parties are subject to simple control. The equipment	(Article 9) 1) to bring to the territory of one of the parties, the aircraft that the airlines designate for the other party to operate for the international air transport, their regular equipment, their ground equipment, fuel, lubricants, consumable technical articles, spare parts including motors, food for the airplanes (including but not limited to food, drink, liquor, tobacco, and other products designated for the sale or use of passengers in a limited quantity during the flight) and other articles which are used or which must be used only in connection with the operation or service of the airplane dedicated to international air transport will be exempt, on a reciprocal basis, from all restrictions on importation, property taxes, capital taxes, or of consumption, customs duties, duties or fees similar to taxes for the national authorities, and not based on the costs of loaned services, only and when such equipment and articles stay on board the airplane. 2) These things will also be exempt, on the basis of reciprocity, of taxes, fees and duties, that were referred to in paragraph 1) of this article, with the with the exception of fees that are based on the costs of the provided services: A. The food brought in to the territory of one of the Parties, or obtained in it, and brought aboard, within reasonable quantities, for the use on the designated airline of the other party designated for the used of international air transport in departure flights, and when these foods are going to be used in a portion of the flight over the territory where they were taken aboard. B. The ground equipment and spare parts, including motors, brought into the territory of the parties for the service, maintenance, or repair of an airplane of a designated airline of the other party that is used in international air transport; and C. The fuel, lubricants, and consumable technical articles introduced to, or supplied within the territory of one of the parties for the use by an airplane of a designated airline of the other party dedicated to use in international air transport, even when these articles will be used in a

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

	and cargo in direct transit will be exempt of the customs duties and other similar fees.	portion of the flight over the territory where they were brought aboard. 3) It can be required that the equipment and articles that were referred to in paragraphs 1) and 2) of this article are maintained under the supervision or control of the pertinent authorities. 4) The exemptions foreseen in this article also will be applicable when the airlines designated by one party contract with other airlines which have exemptions similar to the other party, for the loan or transference in the territory of the other party of the articles specified in paragraphs 1) and 2) of this article. 5) Each party will make their greatest effort to search, for airlines designated by the other party, on a reciprocal basis, the exemption of taxes, customs, fees or duties established by the state, or by regional or local authorities concerning articles specified in paragraphs 1) and 2) of this article, as well as the exception of the increase in the price of fuel which are transmitted directly to the consumer ("Fuel put through charges") in the circumstances described in this article, except in the case where the charges cover the real cost of such services.
Rights for Taxation on the User. (User Fees)	(Article 10) Each of the contracting parties can impose or permit the imposition on the airplanes of the other party, reasonable and just prices for the use of the airports and other services. Without exception, each one of the contracting parties agrees that the said prices may not be greater than those applicable for the use of said airports and services to the dedicated airlines of similar international air services.	(Article 10) 1) the fees imposed upon the user of the airlines of the other party, by the imposing competent authorities must be just, reasonable, and non-discriminatory. 2) The fees imposed on the user of airlines of the other Party should reflect, but should not exceed, a portion equivalent to the full economic cost which the imposing competent authorities incur as a portion of the installation and services of the airport, navigation and air security. The installations and services which have fees charged for their use must conduct themselves in a efficient and economic manner. Before making changes to the fees imposed on the users, reasonable previous notice must be given. Each Party will cause a meeting between the imposing competent authorities in their territory and the airlines that use the services and facilities, and will cause also the competent authorities and the airlines to exchange information that would be necessary to permit a revision equal to the exact amount of the costs.
Legal Competition	(Article 11) 1. The services agreed to for any of the routes specified in the annex of the present agreement will have as their essential objective, to offer adequate capacity to and from the country which the designated airline belongs to.	(Article 11) 1) Each of the Parties will permit an equal and just opportunity for the designated airlines of both parties to compete in the international air transport covered in this accord. 2) Each party will take all pertinent action, within their jurisdiction, to eliminate all forms of discrimination or practices of illegal competition

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

	2. The airlines designated will take into consideration in their common routes, their mutual interests with the purpose of not affecting their respective services. 3. Both contracting parties agree that the Fifth Freedom traffic is complementary to, or subsidiary of, the principle traffic of third and fourth freedoms, whose development constitutes the first objective of the present agreement. 4. In the right to embark and disembark, in the respective territories of the contracting parties, of international traffic whose origin or destination is a third country, in accord with what is established in Article 2 c) and in the annex in the present agreement, can be exercised to conform to the general principles of methodological development of international air traffic and in such conditions that the capacity will be adopted between other factors: a) the demand of traffic between the country of origin and the country of origin and the country of destination, b) the demand for economic exploitation on the route, c) the demand of traffic in the sector that the airline transfers. 5. The frequency of the services of the designated airline, the capacity offered for such services, as well as modifications to the type of airplanes, that signify substantial changes in the agreed services, will be determined by agreement between aeronautical authorities of both contracting parties, officially or by proposal of the designated airlines.	which adversely affects the competitive position of the airlines of the other party. 3) Neither of the parties will unilaterally limit the volume of traffic, the frequency or regularity of service, or the type or types of airplanes operated by the airlines designated by the other party, except when it may be required for reasons of customs, technical reasons, operative or environmental reasons, under the uniform conditions established under article 15 of the Convention. 4) Neither party will impose on the designated airlines of the other party, a requisite of first refusal, a percentage of the total traffic (up-lift ratio), a compensation for not presenting an objection (no-objection fee), or any other requisite with respect to the capacity, frequency or traffic that can not be in agreement with the propositions in this accord. 5) Neither of the parties will require the presentation of itineraries, schedules for fleet flights, or plans of operation for airlines of the other party for their approval, except as required on the basis of non-discrimination, to comply with the uniform conditions such as those established in paragraph 3 of this article, or as may be specifically authorized in an annex to this accord. If for the purposes of information either party needs such presentations, there must be a minimum of administrative charges for the requirements of these presentations and for the procedures for the intermediaries of the air transport and the airlines designated by the other party.
Prices		(Article 12) 1) Each party will permit that the prices for air transport will be established for each of the designated airlines on the basis of commercial considerations of the market. The intervention of the parties will be limited to: a) to evade practices or prices which are discriminatory or of a predatory character; the other party [should present] their reasons for dissatisfaction, as quickly as possible. These consultations must be begun within 30 days of receipt of notice, and the parties will cooperate in the search for information for a reasonable solution to the problem. If the parties arrive at an agreement with respect to a price to resolve that which was presented in the notice of dissatisfaction, each of the parties will make their greatest effort to put this agreement into force. 4) Not in spite of paragraph 3) of this article, each of the parties will permit: a) that any airline of either of the parties or any airline of a third country may equal to the lowest price or most competitive price charged or collected by any other airline or fleet for the international air transport between the territories of the parties; and b) that any airline of one of the

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

		parties may equal the lowest price or most competitive price charged or collected for any other airline or fleet for the international air transport between the territory of another party and a third country. Such as it is here used, the tern "equal" means the right to opportunely establish, using the expeditious procedures that are necessary, a price similar or identical with direct basis, in inter or intra-lines, weighing the differences in conditions with relations to routes, requirements of flights of arrival and departure, connections, and the type of service or type of airplane.
Consultations	(Article 14) The aeronautical authorities of both of the contracting parties will consult periodically with the strict spirit of collaboration, with the purpose to assure the satisfactory application of the arrangements of the present convention and its annex. (Article 12) The aeronautical authorities of each of the contracting parties must assist the aeronautical authorities of the other contracting party, if they make requests for the statistical information that reasonably could be considered necessary to review the capacity required by the established services by the designated airline of the other contracting party. Said information will include all information that is needed to determine the volume of traffic transported by the mentioned airlines in the agreed services. Equal procedure will be followed when the aeronautical authorities of one of the contracting parties request statistical information of the designated airlines if each of the contracting parties.	(Article 13) At any time, either of the parties can solicit a consultation in relation to this accord. Such consultations must be begun as soon as possible, but no after, than 60 days after the date on which the other party receives the solicitation, unless they specifically request another form. Each one of the parties will prepare and present, during such consultations, the pertinent evidence to support their position with the end to facilitate rational, economic, and well formed decisions.
Settlement of Controversies	(Article 18) 1. In the case that a controversy arises over the interpretation or application of the present accord between contracting parties, these will be resolved, primarily, by a solution which will follow direct negotiations. 2. If the contracting parties do not arrive at a solution following negotiations, the controversy can be submitted at the request of either of the contracting parties to the decision of a tribunal composed of 3 parties, one named by each contracting party, and the third designated by the first two. Each of the contracting parties will name an arbitrator within a time period of 60 days following the date when the request for arbitration of the controversy is received by either of the contracting parties by the other contracting party, by diplomatic routes, and the third arbitrator will be named within a new time period of 60 days. If either of the contracting parties does not designate an arbitrator within a fixed time period, either of the contracting parties can ask the president of the IACO to name an arbitrator or arbitrator, as may be the case. In such case,	(Article 14) 1) Any controversy whose motive for origin lies in this accord and that is not resolved in a first round of official consultations, except those that originate along the lines of paragraph 3 of article 12 (prices), with the agreement of the parties, can be referred to another person or group for a decision. If the parties are not in agreement to proceed in this manner, a request by anyone involved in the controversy should be presented for arbitration following the procedures established further on. 2) The arbitration will be carried out by a tribunal of three arbitrators, constituted as follows: a) By the end of 30 days after the receipt of a request for arbitration, each of the parties will appoint an arbitrator. By the end of 60 days after these arbitrators have been nominated, by agreement between those nominated, a third arbitrator will be named who will serve as the President of the tribunal of arbitration; b) If either of the parties do not name an arbitrator, or if the third

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

	the third arbitrator will be a national of a third state, and will act as president of the tribunal. 3. The contracting parties will agree to respect all decisions made in accord with paragraph 2 of the present article.	negotiator is not named in accordance with subparagraph a) of this article, either of the parties can request that the President of the International Court of Justice appoint the arbitrator or arbitrators necessary, at the end to the 30 days. If the President is of the same nationality of one of the parties, the Vice President of highest standing whom is not disqualified for this reason, shall be named. 3) Unless it is agreed to the contrary, the tribunal of arbitration will decide the limits of jurisdiction that conform with this accord, and will establish their own procedure. Under the direction of the tribunal, or by the request of either of the parties, they will verify by conference to determine the precise questions that have been arbitrated, and the special procedures that have been followed, in the 15 days following the creation of the tribunal. 4) Unless it is agreed to the contrary, each of the parties will present a memorandum within the 45 days following the creation of the tribunal. The responses must be sent within 60 days. The tribunal will have an hearing, at the request of either of the parties or at their own discretion, within the 15 days following the deadline of receiving the responses. 5) the tribunal will try to present a written decision within the 30 days following the termination of the hearing, or if there is no hearing, then after the date of presentation of both responses, of the latter of the two dates. The decision of the majority of the tribunal will prevail. 6) The parties can present requests for clarification of the decision within 15 days following the presentation, and any clarification will be emitted within the 15 days following such request. 7) In agreement with national legislation, each of the parties will give full compliance with any decision or verdict of the tribunal of arbitration. 8) The expenses of the tribunal, including the honorariums and payments to the arbitrators will be shared equally between parties. Any expenses which are incurred by the President of the International Court of Justice in connection with the proceedings described in paragraph 2) b) of this article will be considered part of the expenses of the tribunal of arbitration.
Termination	(Article 17) Either of the contracting parties can, at any time, notify the other party of their intention to terminate the present agreement. This notification will be communicated simultaneously to the IACO. If such notification is made, the agreement will end 12 months after the date when the other contracting party receives notice, unless the date of notification is withdrawn by mutual accord, before the expiration of said time period.	(Article 15) At any time, either party can give advice in writing of their decision to terminate this accord. Such notice must be given simultaneously to the IACO. This accord will terminate at midnight (in the place of receipt of the advise of the other party), immediately following the first anniversary of the date of receipt of the advise of the other party, unless the notice is withdrawn by agreement, before the end of this period.

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

	If the contracting party does not acknowledge the date of receipt of said notification, the date of receipt will be considered to be 14 days after the IACO receives notice.	
Multilateral Accord	(Article 18) The present convention and its annex will be amended to exist in harmony with any multilateral agreement that is signed by both contracting parties in conformity with the arrangements in Article 15 of the present convention.	(Article 16) If a multilateral accord is accepted by both parties concerned which covers any aspect of this accord enters into force, this accord will be amended to conform with the stipulations in the multilateral.
Amendments	(Article 15) 1. If either of the contracting parties wants to modify any of the agreements of the present accord, they can request a consultation with the other contracting party. Such consultation, that can be made between the aeronautical authorities verbally or by correspondence, shall begin within a time period of 60 days following the date of he request. If they arrive at an agreement over the modification of the convention, said agreement will be formalized following an exchange of diplomatic notes. 2. The approved amendments will be applied provisionally after the date of the exchange of notes, and will enter into force on the date which both parties agree to, at a time when they have both obtained the approval required in accord with their respective constitutional proceedings, in an additional exchange of notes. 3. Modifications to the annex of the present convention can be made following a direct agreement between the competent acronautical authorities of the contracting parties, confirmed by an exchange of notes through diplomatic routes.	
Registration with OACI	(Article 19) The present agreement and all modifications to the same, in addition to any exchange of notes, will be registered with the IACO.	This accord and all of its amendments must be registered with the IACO. (Art. 17)
Entrance into Force	(Article 20) This present accord will be applied provisionally after the date of signing and will enter into force at the time when both contracting parties have notified each other, through the exchange of diplomatic notes, of the completion of their respective constitutional formalities. Unless one of the contracting parties gives notice of their intention to end it, in conformity with arrangements in Article 17, the present convention will have a duration of 3 years, from the date of its provisional application, and will be renewed by tacit agreement, for additional periods of 3 years, unless either of the contracting parties oppose it 12 months before the date set for its expiration.	This accord will enter into force on the date it is definitively signed by representatives authorized by both governments. With faith in this, both parties subscribe to the present Accord, *ad referendum* subscribed with these signatures and definitive ratification. (Art. 18)

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

Route Rights	(Annex) To the convention over air transport between the Government of the Kingdom of Spain and the Government of the Republic of Costa Rica, for the regular air transport between their respective territories. 1. Schedule of Routes: the agreed services in the specified routes that are referred to in the present convention will be determined as follows: a) Spanish Route: Points in Spain → through intermediate points → San José → points further; in both directions. b) Costa Rican Routes: Points in Costa Rica → through intermediate points → Madrid → points further; in both directions. Notes: The intermediate points and the points further not specified in the routes A and B will be determined subject to the agreement between the aeronautical authorities of both contracting parties. 2. The designated airlines can omit one or various points or landings in the same order of the routes indicated in part 1 of this annex, in all or in part of their services, although only when the point of departure has been situated in the territory of the contracting party that has designated said airline. 3. The hours of operation of the agreed air services will be submitted by the designated airlines for the approval of the aeronautical authorities of both contracting parties 60 days in advance or their entrance into force. The aeronautical authorities must, within a period of 30 days, approve or disapprove the proposed hours. 4. The rights to Fifth Freedom traffic exercised by the designated airlines of each contracting party will be established by accord between the aeronautical authorities of both parties and always over a base of analogous economic values.	(Regular Air Service; Annex 1) Section 1: A party who is designated in this annex, in conformity with the terms of the designation, will have the right to operate international air transport 1) between points in the following routes and 2) between points in such routes and points in third countries following the points in the territory of the Party which has designated the airline. a) Routes for the airline or airlines designated by the US: From the United States of North America → points intermediate → to Costa Rica → points further. b) Routes for the airline or airlines designated by Costa Rica: From Costa Rica → points intermediate → to San Juan, Miami, and [five] additional points within the United States → to three points further in Canada. Section 2: Each one of the designated airlines can, in any or all of their flights, if they consider it convenient to operate flights in either or both directions without directional or geographic limitations, serve points in the routes in any order and omit stopovers in any point or points that are in the territory of the other Party that designated said airline without losing any right to operate in the traffic permitted in other forms in this accord. Section 3: In any of the international segment or segments of the routes described in Section 2 above, a designated airline can operate the international air transport without any limitations to the amount of change, in any point of the route, in the type or number of airplanes they can operate, when the transport in the direction of exit to any point that is further in line that will be a continuation of the transport of the party that has designated the airline; and in the direction of entrance, the transport to the territory of the party that has designated the airline will be a continuation of the transport further to this point. (Charter Service; Annex 2) Section 1: The airlines of one of the parties which is designated in this annex, in accord with the terms of such designation, will have the right to operate international air transport to, from, and through any point or points in territory of the other Party, directly or with stopovers in route, for one way flights or round trip, in the following traffic: a) any traffic from or to a point or points in the territory of the party that has designated the airline. b) any traffic form or to any point or points further on from the territory of

APPENDIX II—SPAIN AND THE UNITED STATES OF AMERICA

		the party that has designated the airline and brought within the territory of this party and such point or points further i) in the transport that has been considered in this annex or ii) in transport considered in this annex with the traffic that will make a stop of less than two consecutive nights in the territory of this party. Section 2: With relation to the traffic that originates in the territory of either of the contracting parties, each one of the airlines that operates air transport in accord with this annex will comply with the laws, regulations, and rules of the party in which the traffic originates, in flights that are one way or round trip, as long as this party specifies now or in the future, that this will be applicable to this transport. Further, the designated airlines of one of the contracting parties can operate chartered flights with traffic that originates in the territory of the other party, in conformity with the laws, rules, and regulations of the first party. When the rules or regulations of one party no longer apply, and there are different conditions in different countries, each one of the parties will apply to the designated airlines of the other contracting party, the same conditions or limitations, or terms without restrictions. Further, if the aeronautical authorities of either of the contracting parties enact regulations or rules that apply conditions or limitations more restrictive to one or more of the airlines, the air law or regulation less restrictive will apply to the designated airline of the other party. Section 3: Neither of the Parties will require of a designated airline of the other Party , with respect to transport of traffic in the territory of this other Party, in one way flights or in round trip, present more than one declaration of conformity with the laws, regulations, and rules of the other party that are referred to in Section 2 of this Annex, or the withdrawal of these regulations or rules granted by the aeronautical authorities of this other Party.
Tariffs	(Article 6) 1. The applicable tariffs for the designated airlines of the contracting parties for the transport destined for the territory of the other party or foreseen to go there, will be established at reasonable levels, bearing in mind all of the elements of valuation, especially the costs of exploitation, the reasonable benefit, and the applicable tariffs of other airlines of air transport. 2. The tariffs mentioned in paragraph one of this article will be in accord, as is possible, for the designated airlines, subject to consultations with the other airlines that operate in the whole route or in part of it. The airlines will arrive at this recurring agreement, to the extent that is possible, by the recommendation of the international organizations whose regulations are usually used.	appended

APPENDIX II—VENEZUELA

	3. The tariffs that are assigned will be submitted for approval to the aeronautical authorities of both contracting parties, at least 90 days before the date foreseen for their entrance into force. In special cases this time period may be reduced with the agreement of said authorities. For the entrance into force of a tariff, it is necessary for the preliminary approval of the aeronautical authorities of both parties. 4. When parties have not been able to agree on a tariff that conforms with the arrangements in paragraph 2 of this article, or when an aeronautical authority in the time period mentioned in paragraph 3 of this article, shows to the other aeronautical authority their disagreement in respect to such tariff in accord with the agreements in paragraph 2, the aeronautical authorities of both contracting parties will work to arrive at a tariff of mutual accord. 5. If the aeronautical authorities can not reach an accord over a tariff which conforms to paragraphs 2, 3, and 4 of the present article. The controversy will be resolved by the means arranged in Article 18 of the present convention. 6. A tariff established that conforms with the arrangements of the present article will continue to be in force until a new tariff is established. Without exception, the validity if a tariff can not be prolonged by virtue of this paragraph, for a period of longer than 12 months counting to the date when it must expire. 7. The designated airlines of the contracting parties can not modify in any manner, the price, nor the rules of applications of the tariffs in force.	

APPENDIX II—VENEZUELA

	VENEZUELA; 1st of December, 1991
Definitions	(Article 1)
Rights Granted	(Article 2) 1. Each contracting party grants to the other contracting party the rights specified in the present convention with the purpose to establish regular international air services in the routes specified in the Schedule of Routes attached to the present convention. 2. Saving what is stipulated in the present convention, the designated airline of each contracting party will have, during the operation of the air services agreed to in the specified routes, the following rights: a) to fly above the territory of the other contracting party without landing in said territory, b) to make stopovers for non-commercial purposes in the territory of the other contracting party, c) to make stopovers in the points of the other contracting party that are specified in the schedule of routes with the proposition to disembark and embark passengers, cargo, equipment, and mail in the service of international air transport originating from or destined to the other contracting party, and when coming from or with destination to another State, in accord with those established in the Schedule of Routes.
Designations and Authorization	(Article 3) 1. Each contracting party will have the right to designate in writing through diplomatic channels to the other contracting party, an airline to operate the agreed services in the routes specified, and the right to withdraw or change such designation. 2. To receive such designation, the other contracting party must, in agreement with the arrangements on paragraph 3 of the present Article, concede without delay, to the designated airline of the other contracting party, corresponding authorization of operation. 3. The aeronautical authorities of one of the contracting parties can demand that the designated airline of the other contracting party demonstrate that it is in condition to comply with the obligations proscribed in the normal and reasonable laws and regulations applied by said authorities to the operation of international air transport , in conformity with the arrangements of the Chicago Convention. 4. When an airline has been authorized and designated in this fashion, it can begin, at any time, to operate the agreed services. Whenever it is operating said services, a tariff will be established in conformity with

APPENDIX II—VENEZUELA

	the arrangements in the present convention.
Revocation of the Authorization	(Article 4) 1. Each contracting party reserves the right to deny or revoke the authorization of operation conceded to an airline designated by the other contracting party, or to suspend the ability of said airline to exercise the rights specified in Article 2 of the present convention, or impose the conditions that are necessary to exercise the said rights: a) when they are not convinced that the property and effective control of the airline is in the hands of the party that designated the airline, or its nationals. b) when the airline does not comply with the laws and regulations of the contracting party that granted those privileges, or c) when the airline stops operating the agreed services with arrangement to the prescribed conditions of the present convention. 2. Unless the immediate revocation, suspension, or imposition of the conditions foreseen in paragraph 1 of the present Article are essential to prevent new infractions of the laws and regulations, such right will be exercised only after consultation with the other contracting party.
Application of the Laws	(Article 6) 1. The laws and regulations of each contracting party that regulate in their territories, the entrance and exit of airplanes dedicated to international air transport or related operations, and navigation of said airplanes, during their stay within the limits of their territory, will apply to the airplanes of the designated airline of the other contracting party. 2. The laws and regulations that rule, in the territory of each contracting party, the entrance, stay, and exit of passengers, crew, equipment, and cargo and mail, as wall as the transactions relative to the formalities pertaining to the entrance and exit from the country, to immigration, to customs, and to sanitary measures, apply also in the said territory to the operation of said designated airline of the other contracting party. 3. The passengers in transit over the territory of either of the contracting parties, only will be subject to simple control. The equipment and cargo in direct transit will be exempt from customs duties and other similar fees.
Safety	1. The certificates of air navigability , the certificates or titles of aptitude, and the licenses issued or recognized as valid for either of the contracting parties, and in force, will be recognized as valid for the other contracting party for the operation of the routes defines in the Schedule of Routes, as long as the requisites under which such certificates or licenses were issued or recognized are equal or greater to those that were established by the Chicago Convention.

APPENDIX II—VENEZUELA

	2. Each contracting party reserves, not withstanding, the right not to recognize the validity, for flights above their own territory, the titles or certificates of aptitude and licenses issued to their own nationals by the other contracting party.
Air Safety	1. In conformity with the rights and obligations that are imposed by International Law, the contracting parties acknowledge their mutual obligation to protect the security of Civil Aviation against acts of illicit interference, which constitutes an integral part of the present convention. Without limit, the validity of their rights and obligations by virtue of International Law, the contracting parties, will act in particular, in conformity with the arrangements of the *AGREEMENT ABOUT THE INFRACTIONS AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRPLANES*, signed in Tokyo on the 14 of September of 1963, *THE CONVENTION FOR THE PREVENTION OF ILLEGAL POSSESSION OF AIRPLANES*, signed in the Hague on the 16 of December of 1970, and the *CONVENTION FOR THE PREVENTION OF ILLEGAL ACTS AGAINST THE SECURITY OF CIVIL AVIATION*, signed in Montreal on the 23 of September, 1971. 2. The contracting parties will mutually give all necessary help that is requested to prevent acts of illegal possession of civil airplanes and other illicit acts against the security of said airplanes, their passengers and crew, airports and installations of air navigation and all other threats against the security of civil aviation. 3. The contracting parties will act, in their mutual relations, in conformity with the arrangements concerning the security of aviation established by the ICAO and in the annexes to the convention of the ICAO, in the measures in which these arrangements concerning security, will be applied to the parties; they will demand that the designated airlines act in conformity with said arrangements concerning aviation security. 4. Each contracting party will agree to require of said designated airlines that they observe the arrangements concerning aviation security that is mentioned in the previous paragraph, in order for the other contracting party to enter, stay, or exit from the territory of the other contracting party. Each contracting party will make sure that they apply adequate effective measures to protect the airplane and to inspect the passengers, crew, effective personnel, equipment, cargo, and the supplies of the airplane before and during the boarding or the stay. Each of the contracting parties will also be favorably predisposed to attend to all requests from the other contracting party to adopt reasonable special measures of security with the purpose to prevent a determined threat. 5. When an incident or threat of incident to carry out an illicit possession of

APPENDIX II—VENEZUELA

	civil aircraft, or other illicit acts against the security of such airplanes, passengers, and crew, airports, or installations of air navigation, the contracting parties will assist in helping to facilitate communications, and other appropriate measures to put to an end, in a rapid and sure fashion, said incident or threat.
Commercial Opportunities	(Article 14) 1. The designated airline of one contracting party can maintain and employ their own personnel for their services in the airports and the cities in the territory of the other contracting party, where the same airline has proposed to maintain their own representation. 2. All of the personnel will be subject the laws, regulations and administrative procedures applicable in the territory of the other contracting party. (Article 13) The designated airlines for each of the contracting parties will have the right to convert and transfer, the quantity earned in the territory of the other party, greater than the taxes of the same, in relation to their activities in air transport. Such transference will be subject to the internal legislation in effect in each country.
Rights for Customs and Taxes	(Article 10) 1. The airplanes used in international air services by the designated airlines for either of the contracting parties and their normal equipment, fuel, lubricants, provisions, (including food and beverages), on board such airplanes, will be exempt from all duties from customs, inspections, or other fees, taxes, and national taxes, upon the entrance to the territory of the other contracting party, when these equipment and provisions stay on board the airplane until the time of their re-exportation, or when these articles are used or consumed by said airplanes in flight over the referred territory. 2. Also exempt under a condition of reciprocity, from the same fees, taxes, and other charges, with the exception of the right of services provided are: a) Lubricant oils, consumable technical materials, spare parts, tools and special equipment for maintenance work, as well as provisions, (including food and beverages) and exclusively for the development of activities of airlines, remitted by the airline of one contracting party to the territory of the other contracting party. b) The fuel, lubricant oils, other technical consumable materials, spare parts, equipment for the running the airplane, and provisions that are put on board the airplanes of one of the

APPENDIX II—VENEZUELA

	contracting parties in the territory of the other contracting party and used in international services. 3) The equipment normally brought on board airplanes, as well as other materials and provisions that stay on board of the airplanes of both of the contracting parties, can be unloaded in the territory of the other contracting party only with previous authorization of the customs authorities of the territory where the airplane is located. In such cases, such goods will remain under the supervision of said authorities until it is exported or used in accord with the customs regulations.
Rights for Taxation on the User. (User Fees)	(Article 9) Each of the contracting parties can impose or permit to be imposed on the airplanes of the other party, reasonable and just fees for the use of the airport and other services. Without exception, each one of the contracting parties agree that said fees will not be higher than those applied for the use of said airports and services to their national aircraft dedicated to similar international services.
Legal Competition	(Article 5) The designated airline of each contracting party can create cooperation agreements. Those that enter into force must be approved by the aeronautical authorities of both parties, in accord with their respective legislation. (Article 11) 1. Both contracting parties agree that the designated airlines will enjoy equal and just treatment in the operation of the agreed services in the specified routes between their respective territories on the basis of the principle of equality of opportunities. 2. Each contracting party will take all pertinent appropriate action, within their jurisdiction, to eliminate all forms of discrimination, or practices of illegal competition that adversely affect the competitive position of the airline of the other contracting party. 3. In the operation of the agreed services by the designated airline of either of the contracting parties, they will give consideration to the interests of the designated airline of the other contracting party, with the purpose of not to individually affect the services of the latter party. 4. It will remain understood that the services provided to the designated airline conform to the present convention , and will have the primary objective to proportion air transport with the adequate capacity for the necessities of traffic between the two countries. 5. The contracting parties, in accordance with the specified routes, and their terms of operations, that the same will be defined by the aeronautical authorities of both contracting parties.
Prices	

APPENDIX II—VENEZUELA

Consultations	(Article 16) 1. The aeronautical authorities of the contracting parties with the frequency they consider necessary and with the spirit of strict collaboration, with the purpose to assure the satisfactory application of the agreements in the present convention. 2. Either of the contracting parties can, at any time, request a meeting for consultations between aeronautical authorities of the two contracting parties with the proposition to analyze the interpretation, application, or modification of this convention. Said consultations will begin within a period of 60 days, beginning on the date of receipt of petition made to the Minister of Exterior Relations of Venezuela, or to the Minister of Exterior Relations of the Republic of Costa Rica, which ever is the case. If they arrive at an accord to modify the convention, said accord will be formalized following an exchange of diplomatic notes. 3. The amendments such that are approved, will enter into force on the date on which both contracting parties agree, at such time when they have obtained the approval of everyone required, in accord with their respective constitutional procedures, in an additional exchange of notes. (Article 15) The aeronautical authorities of each of the contracting parties can arrange that the respective designated airlines will submit to the aeronautical authorities of the other contracting party, if they are so asked, all statistical data that may be necessary to determine the volume of traffic transported by the mentioned airline in their agreed services.
Settlement of Controversies	(Article 17) Any controversy that originates from this agreement, will be subject, before all, to direct consultations between aeronautical authorities in agreement with the interval established in paragraph 2 of article 16 of this convention and if it is not resolved, it will be addressed through diplomatic channels.
Termination	(Article 20) Either contracting party can at any time, notify the other contracting party of their decision to renounce the present convention. This notification will be communicated simultaneously to the IACO. If there is such notification, the convention will end 6 months after the date of receipt of notification by the other contracting party, unless said notification is withdrawn by mutual agreement before the end of the said time period. If the other contracting party does not reveal the date of receipt of said notification, it will be considered received 14 days after the IACO has received notification.
Multilateral Accord	(Article 18) 1. In the case that a multilateral convention concerning the rights of traffic for regular international air services enters into force with respect to both contracting parties, the present accord will be modified with the

APPENDIX II—VENEZUELA

	purpose to adapt this agreement to the arrangements of the multilateral accord. 2. Pending the entrance into force of the cited modifications in any conflict between the agreements of this accord and the multilateral convention, the agreements of this present accord will prevail.
Amendments	
Registration with OACI	(Article 19) This convention and all of its amendments will be registered with the IACO.
Entrance into Force	(Article 21) The present convention will enter into force on the date of the last diplomatic notification that is communicated that completes the legal formalities of each of the contracting parties necessary for its entrance into force.
Route Rights	(Annex A) The airline designated by the Republic of Costa Rica will have the rights to operate the air services in the following route: a) San José → points intermediate → two points ending in Venezuela → One point further. NOTES: 1) The designated airline for the Government of Costa Rica will exercise rights of traffic of third and forth freedoms, and fifth freedoms to points intermediate and further. 2) The designated airline for the Government of Costa Rica will not be limited in the type of equipment for flight. 3) The designated airline for the Government of Costa Rica can omit their points intermediate and points further in the route, in one or all of their flights, given previous notification to the corresponding aeronautical authorities. 4) The frequency of the service for the points intermediate and further, will be determined by agreement between the aeronautical authorities. (Annex B) The airline designated by the Government of the Republic of Venezuela will have the rights to operate the air services in the following route: a) Venezuela → a point intermediate → San José, Costa Rica, → two points further. NOTES: 1) The airline designated by the Government of the Republic of Venezuela will exercise rights of traffic of third and forth freedoms, and fifth freedoms to points intermediate and further. 2) The airline designated by the Government of the Republic of Venezuela will not be limited in the type of equipment for flight.

APPENDIX III—ARGENTINA AND COLOMBIA

	3) The airline designated by the Government of the Republic of Venezuela can omit their points intermediate and points further in the route, in one or all of their flights, given previous notification to the corresponding aeronautical authorities. 4) The frequency of the service for the points intermediate and further, will be determined by agreement between the aeronautical authorities. These will come into effect after their publication.
Tariffs	(Article 12) 1. The tariffs applicable for the designated airlines of the contracting parties for transport destined for the territory of the other contracting party or their provinces, will be established at reasonable levels, owing to the count of all elements of value, especially operating costs, a reasonable benefit, and applicable tariffs for other airlines. 2. The tariffs mentioned in paragraph 1 of this Article will be in accord, if possible, for the designated airlines of both contracting parties. 3. The tariffs thus accorded will be submitted to the approval of the aeronautical authorities of both contracting parties, at least 15 days before the date when they will enter into force. In special cases this time period may be reduced with the consent of said authorities. In order for a tariff to enter into force, the previous authorization of the aeronautical authorities of both parties is needed. 4. When a tariff can not be established in agreement with the arrangements of paragraph 2 of the present Article, or when an aeronautical authority in the time period mentioned in paragraph 3of this Article, shows to the other aeronautical authority his disagreement with respect to any tariff created in conformity with the arrangements in paragraph 2, the aeronautical authorities of both contracting parties will try to establish a tariff of mutual agreement. 5. A tariff established in conformity with the arrangements of the present Article, will continue to be in force until the creation of a new tariff. Without exception, the validity of a tariff can not be extended by virtue of this paragraph for a period of longer than 6 months after the date when it must expire. 6. To set these tariffs, it will also be taken into consideration the recommendations of the international organization whose regulations are usual. 7. The designated airlines of the contracting parties in no way may change the prices or regulations that apply to the effective tariffs.

APPENDIX III—ARGENTINA AND COLOMBIA

Appendix III

Memorandums of Understanding held by Costa Rica

	ARGENTINA; acts of meetings of 4 and 5 of November 1993, and 19 and 20 of April, 1994	COLOMBIA: Memorandum from the 25 of October 1993
Definitions		
Rights Granted		
Designations and Authorization		1. With the proposition to bring about the services established in the present memorandum, each party can designate two airlines for regular services of passengers, cargo, mail, and or exclusive services of cargo, and communicate them to the other party through normal channels. Each party will reserve the right to withdraw or change such designations. The accord is created with the understanding of double designation. The aeronautical authority of Costa Rica ratify the designation of the airline National Air Services S.A. (SANSA) and designates the airline Aero Costa Rica S.A. (ACORISA) to carry out this agreement. The aeronautical authority of Colombia ratifies the designation of the airline Society Aeronautical of Medellín Consolidated S.A. (SAM) and will designate another airline.
Revocation of the Authorization		
Application of the Laws		
Safety		
Air Safety		
Commercial Opportunities		
Rights for Customs and Taxes		
Rights for Taxation on the User. (User Fees)		

APPENDIX III—ECUADOR

Legal Competition		2a) Each designated airline will have the right to operate up to seven weekly flights in the established routes, without limitation on capacity or type of aircraft, but observing the technical capacities of the respective airports. 2b) The designated airlines can operate regular services between San José, Costa Rica and San Andrés, Colombia, without any limit or restriction amount of capacity and frecuencies operating rights of third and fourth liberties.
Prices		
Consultations		
Settlement of Controversies		
Termination		
Multilateral Accord		
Amendments		
Registration with OACI		
Entrance into Force		
Route Rights	The notes from these meetings discuss the possibility of third, fourth and fifth freedom traffics between countries, but which have not yet been worked out. Currently there is no concrete arrangement.	2. a. The designated airlines can operate the routes that are described with the rights of traffic of third and fourth liberties. For the designated airlines of the Republic of Costa Rica: From San José → the Island of San Andrés, Colombia, and back. For the designated airlines of the Republic of Columbia: From the island of San Andrés, Columbia → San José, CR and back. The right of fifth freedom that in six weekly frequencies is exercised by SAM in the route from San José to Guatemala and back, is maintained. The designated airlines of Costa Rica will have the right to operate fifth freedom traffic in reciprocity of the point established above, such rights will be negotiated between the aeronautical authorities of both parties.
Tariffs		3. The tariffs will be submitted for the approval of the respective aeronautical authorities, in conformity with the internal legislation of each country.

APPENDIX III—ECUADOR

	ECUADOR; Memorandum of Understanding concerning Air Transport,
Definitions	(Article 1)
Rights Granted	(Article 2) Each contracting party will concede the other contracting party the rights specified in the present memorandum with the purpose to establish regular international air services in the routes specified in the attached schedule of routes. Saving the stipulations in the present memorandum, the designated airline(s) by each contracting party will have during the operation of the agreed air services the following rights: a. to fly above the territory of the other party without landing b. to make stopovers for non-commercial reasons in the territory of the other present convention. c. to make stops in the territory of the other contracting party that are specified in the schedule of routes with the ability to embark and disembark passengers, cargo, equipment, and mail, in international air services, proceeding from or destined to the other contracting party, or in the case proceeding from or destined to a third State, in accord with what is established in the schedule of routes.
Designations and Authorization	(Article 3) Each contracting party will have the right to designate in writing through diplomatic channels, to the other contracting party, the designated airline(s) that will operate the agreed services in the specified routes, and the right to withdraw or change such designation in conformity with their respective aeronautical politics. Upon receipt of the designated airline(s), the other contracting party must, in agreement with the arrangements in paragraph 3 of the present article, concede without delay, to the designated airline(s) the corresponding authorizations of operation. The aeronautical authorities of one of the contracting parties can demand that the designated airlines of the other contracting party demonstrate that they are in the condition to comply with the obligations prescribed in the normal and reasonable laws and regulations applied by said authorities, to the operation of international air services, in conformity with the Convention. When an airline has been designated and authorized in this fashion, it can begin, at any time, to operate the agreed services, as long as there is in fore for these said services, a tariff established in conformity with the present memorandum.

APPENDIX III—ECUADOR

Revocation of the Authorization	(Article 4) 1. Each contracting party reserves the right to deny or revoke the authorization of operation conceded to a designated airline of the other contracting party, or to suspend from the said airline the rights specified in Article 2 of the present memorandum, or to impose the conditions that it feels are necessary to exercise the said rights: a. when it is not convinced that the property and effective control of the airline are in the hands of the contracting party that designated it, or its nationals, b. when the airline does not comply with the laws and regulations of the contracting party that granted those privileges, or c. when the airline stops operating the agreed services as proscribed in the present convention. 2. Unless the immediate revocation, suspension, or imposition of the conditions established in paragraph one above are essential to prevent new infractions of the laws and regulations, such right will only e exercised after consultations with the other contracting party.
Application of the Laws	1. The laws and regulations of each contracting party that govern in their territory the entrance and exit of airplanes dedicated to international air service or related to the operation and navigation of said airplanes during their stay within the limits of their territory will apply to the airplanes of the designated airlines of the other contracting party. 2. The laws and regulations in effect in each contracting party governing the entrance, stay, or exit of passengers, crew, equipment, cargo, and mail, as well as the related transactions concerning the formalities of entrance and exit to the country, immigration, customs, and sanitary measures, will apply also to the operations of the designated airlines of the other contracting party.
Safety	(Article 6) 1. The certificates of air navigability, the certificates or titles of aptitude, and the licenses issued or validated by one of the contracting parties and not expired, will be recognized as valid by the other contracting party for the operation for the routes defined in the schedule of routes in the present accord, as long as the requisites under which such certificates or licenses were issued or validated are equal or greater than the minimum that was established in the Convention. 2. Each contracting party reserves, not withstanding, the right not to validate, for flights above their territory, the titles or certificates of aptitude and the licenses issued to their own nationals by the other contracting party.

APPENDIX III—ECUADOR

Air Safety	(Article 7) 1. In conformity with the rights and obligations that are imposed by international law, the contracting parties confirm their mutual obligation to protect the security of civil aviation against acts of illicit interference, constitutes an integral part of the present memorandum. Without limit the validity of their rights and obligations by virtue of international law, the contracting parties will act in particular in conformity with the arrangements of the *AGREEMENT ABOUT THE INFRACTIONS AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRPLANES*, signed in Tokyo on the 14 of September of 1963, *THE CONVENTION FOR THE PREVENTION OF ILLEGAL POSSESSION OF AIRPLANES*, signed in the Hague on the 16 of December of 1970, and the *CONVENTION FOR THE PREVENTION OF ILLEGAL ACTS AGAINST THE SECURITY OF CIVIL AVIATION*, signed in Montreal on the 23 of September, 1971. 2. The contracting parties will mutually provide all necessary help that is requested to prevent acts of illegal possession of civil aircraft, and other illegal acts against the security of said airplanes, passengers, crew, airports, and air navigation installations and all other threats against the security of civil aviation. 3. The contracting parties will act, in their mutual relations, in conformity with the arrangements over the security of aviation established by the ICAO in the measures concerning security that are applicable, will be required that the operators that have their principle or permanent office in their territories, will act in conformity with said arrangements concerning aviation security. 4. Each contracting party will agree that it can require of the said airlines that they observe the agreements concerning aviation security that are mentioned in the previous paragraph, required by the other contracting party to enter, exit or stay in the territory of the other contracting party. Each contracting party will assure that in their own territory they apply adequate effective measures to protect the airplanes, and will inspect the passengers, crew, effective personnel, equipment, cargo, and the supplies of the airplane before and during the stay or the stay. Each one of the contracting parties will also be favorably predisposed to attend to any request by the other contracting party to adopt reasonable special measures with the purpose to block a determined threat. 5. When there occurs an incident or threat of incident of illegal possession of civil aircraft or other illegal acts against the security of such airplanes, passengers, and crew, airports, or installations of

APPENDIX III—ECUADOR

	air navigation, the contracting parties will mutually assist the facilitation of the communications and other appropriate means created to give end in a rapid and safe fashion, to said incident or threat.
Commercial Opportunities	(Article 12) (Transfer of Profit) 1. The contracting party on the basis of reciprocity, will eliminate all taxes on goods or earnings of the designated airlines of the other contracting party derived from the operation of agreed services. 2. The transfer of profits obtained by the designated airlines of one contracting party in the country of the other contracting party, must be carried out in accord with the official regulations of the type of foreign money exchange in force in the territory of the contracting party, on the condition of freedom of exchange controls. 3. The contracting party, in following the agreements in paragraph 2 of his article, must facilitate in an expeditious form, the transfer of such funds earned in the other country.
Rights for Customs and Taxes	(Article 9) 1. The airplanes used in international air services by the designated airline(s) for either of the contracting parties and their daily equipment, fuel, oil, and provisions (including food and beverages), on board such airplanes, will be exempt from all customs duties, fees for inspection, or other charges, fees, or taxes, federal, state, or municipal, that enter into the territory of the other contracting party, only when such equipment and provisions stays on board the airplane until the time of its re-exportation, or if said articles are used or consumed by said airplanes in flights within the referred territory. 2. Equally exempt, on the condition of reciprocity, of the same fees, taxes, payments with the exception of fees for services will be : a. lubricant oils, technical consumable materials, spare parts, tools and special equipment for maintenance work, as wall as the provisions (including food and beverages), the documents of the airline (like tickets, pamphlets, itineraries and others) and published material that is considered necessary and exclusively for the use of developing the activities of the airline, brought into the territory of one of the contracting parties by the other contracting party. b. the fuel, lubricant oils, other consumable technical

APPENDIX III—ECUADOR

	materials, spare parts, normal equipment and provisions that are brought on board the airplanes of the designated airline in the territory of the other contracting party and used in international services. 3. The normal equipment brought on board of airplanes, as well as the other materials and provisions that stay on board of the airplanes of either of the contracting parties, can be unloaded in the territory of the other contracting party only with the previous authorization of the local customs authorities. In such cases, the goods will remain under the supervision of said authorities until it has been exported or is used in accord with the customs regulations. 4. The passengers in transit across the territory of either of the contracting parties will only e subject to a simple control. The equipment and cargo in direct transit will be exempt from customs duties and other similar fees.
Rights for Taxation on the User. (User Fees)	(Article 8) Each of the contracting parties can impose or permit to be imposed upon the airplanes of the other contracting party just and reasonable fees for the use of the airports and their services. Without exception, each one of the contracting parties will agree that the said fees will not be higher than those charged for the use of said airports and services to their own national airlines dedicated to similar international air services.
Legal Competition	(Article 10) 1. Both contracting parties agree that their designated airlines will have just and equal treatment in the operations of the agreed services in the specified routes between their respective territories on the basis of equality of opportunity. 2. Each party will take all appropriate pertinent action within their jurisdiction to eliminate all forms of discrimination or illegal competition that adversely affects the competitive position of the designated airline(s) of the other party. 3. In the operation of the agreed services by the designated airlines of either of the contracting parties, the interests of the designated airlines of the other contracting party will be taken into account, with the purpose not to individually affect services rendered. 4. The understanding will be that the services provided by the designated airline(s) conform to the present convention, will have the primary objective to proportion air transport with adequate capacity for the necessities between the two countries. 5. The contracting parties agree in that the routes specified and the terms of operation of the same will be defined by the aeronautical authorities of both contracting parties.

APPENDIX III—ECUADOR

Prices	
Consultations	(Article 14) 1. The aeronautical authorities of the contracting parties will consult with the frequency they consider necessary, and in the spirit if strict cooperation with the purpose to assure the satisfactory application of the agreements in the present memorandum. 2. Either of the contracting parties can at any time solicit consultations between the aeronautical authorities of both contracting parties, for the purpose to analyze the interpretation, application, or modification of this memorandum. Said consultations will begin within a period of 60 days, starting at the date of receipt of the request by diplomatic channels. If they arrive at an agreement over the modification of the memorandum, said agreement will be formalized by an exchange of diplomatic notes. (Article 13) The aeronautical authorities of each one of the contracting parties agree that their respective designated airlines will provide to the aeronautical authorities of the other contracting party, if they are so requested, all statistical data that is needed to determine the volume of traffic transported by the mentioned airlines in the agreed services.
Settlement of Controversies	(Article 15) 1. Any controversy that originates from this memorandum and which can not be resolved by means of negotiations between aeronautical authorities of both contracting parties will be referred to another person or group for decision. If the contracting parties are not in agreement to proceed in this manner, a request from either of them will bring the controversy to arbitration, in the manner mentioned later. 2. The arbitration will be carried out by a tribunal of three arbitrators, composed as follows: a. By the end of a period of 30 days after the request for arbitration, each of the contracting parties will name an arbitrator. By the end of 60 days after the two arbitrators have been named, by agreement between them, will be named a third arbitrator who will act as president of the tribunal of arbitration, who will not be a national of either of the contracting parties. b. If either of the contracting parties does not name an arbitrator, or if the third arbitrator is not named in agreement with subparagraph (a) of this paragraph, either of the contracting parties can request the president of the

APPENDIX III—ECUADOR

	ICAO to name the arbitrator(s) necessary within a term of 30 days. If the president is of the same nationality of either of the contracting parties, the highest ranking vice president who is not disqualified will make the nomination. 3. Unless it is agreed to the contrary, the tribunal of arbitration will determine the limits of jurisdiction to conform with the present memorandum and establish their own procedure. Under the direction of the tribunal or the request of either of the contracting parties, they will carry out a conference to determine the precise questions that will be arbitrated, and the specific procedures they will use, in the 15 days following the full constitution of the tribunal. 4. Unless it is agreed to the contrary, each one of the contracting parties will present a memorandum within 45 days following the full constitutions of the tribunal. The responses must be sent within 60 days. The tribunal will have a hearing at the request of either of the contracting parties or its own discretion, within the 15 days following the final date for receipt of the responses. 5. The tribunal will present in writing a decision within 30 days following the end of the hearing, or if there is no hearing, after the date of the presentation of both responses. The decision of the majority of the tribunal will prevail. 6. The contracting parties can present requests for clarification of the decision within the 15 days following its presentation, and any clarification which is given, will be given within 15 days after the request. 7. In agreement with their national legislation, each one of the contracting parties will give full compliance to any decision or ruling of the tribunal of arbitration. 8. The fees of the tribunal of arbitration, including honorariums and fees of arbitration will be divided into equal portions for both contracting parties. Any fee that is incurred by the president of the ICAO in connection with the proceeding described in paragraph 2b) of this article will be considered part of the fees of the tribunal of arbitration.
Termination	(Article 17) Either of the contracting parties can at any time, notify the other contracting party of their decision to terminate the present memorandum. This notification will be notified simultaneously to the ICAO. If they make such notification, the memorandum will terminate 6 months after the date of receipt of notification by the other contracting

APPENDIX III—ECUADOR

	party, unless said notification is withdrawn by mutual accord before the expiration of said time period. If the other contracting party does not acknowledge receipt of said notification, it will be considered received 14 days after the ICAO has received notification.
Multilateral Accord	
Amendments	
Registration with OACI	(Article 16) This memorandum and all of its amendments will be registered with the ICAO.
Entrance into Force	The present memorandum will enter into force on this date.
Route Rights	(Annex 1) Route for Ecuador Quito and or Guayaquil, Ecuador → San José, Costa Rica and points further as established.* Route for Costa Rica San José, Costa Rica → Quito and or Guayaquil, Ecuador and points further as established.* (* not yet established.)
Tariffs	(Article 11) The tariffs for the air transport of passengers and cargo, will be established in conformity with the national laws of the country of origin of such passengers or cargo, the evidence of completion of this agreement will be the ticket or the air guide that authorizes the air transport.